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Ontario Legislative Assembly, Select
Committee on the New Ontario Hydro Building

Hearings . v. 4. June 20 - June 27/73.



Vol 4

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, June 20, 1973.

Afternoon session

APPEARANCES

Committee members:

J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Ontario Hydro counsel:

Pierre Genest, QC
James McCallum, QC

Canada Square Counsel:

Douglas Laidlaw, QC

Counsel to J.D. Smith:

T.A. King, QC

President, Ellis-Don Ltd.:

J.D. Smith

Secretary-Treasurer, Ellis-Don Ltd.:

D.V. Grant

List of exhibits introduced during this sitting appears on last page.



June 20, 1973
3.05 - 3.10 p.m.
M.R.

LEGISLATURE OF ONTARIO

SELECT COMMITTEE - HYDRO HEADQUARTERS

Mr. Chairman: I call the meeting back to order and pass the proceedings to Mr. Shibley.

Mr. Shibley: Mr. Smith, I just want to review a few more of the documents in your file. I intend to leave a number of them for Mr. Grant. Just going back for a moment in the summary of the breakout of costs - you know, the hand-printed portion of the documentation. It starts - "Operating Costs; Heat and light; Taxes" and so on, have you got that document in front of you?

Mr. Smith: I don't know which one ---

Mr. Shibley: It's the second page, - You've got on the first page "Total ~~Costs~~^{Rent}" and a ~~list~~ phone number, and then on the second page ---

Mr. Smith: Oh, yes.

Mr. Shibley: I notice on that page, "Janitor services - \$240,000." Is that intended to indicate that you were going to clean this building at a cost of 20 cents per square foot per year?

Mr. Smith: No. The price is \$300,000, Mr. Shibley.

Mr. Shibley: \$300,000?

Mr. Smith: Yes. The check-mark was the one that I used.

Mr. Shibley: I see. And would that be then roughly something in the order of, say, 24 to 25 cents per square foot?

Mr. Smith: Yes.

Mr. Shibley: Do you consider that a reasonable allowance for janitorial services?

Mr. Smith: Yes, we did. We obtained that price from - I believe it was the people who do the Toronto-Dominion Centre. I'm not sure, but we obtained that price from one of the main cleaning firms.

Mr. Shibley: I see.

(Mr. Shibley)

So this was a price that you ~~paid~~

Mr. Smith: This was a quoted price that we could use in our tender.

Mr. Shibley: I see.

Mr. Smith: We didn't work that up on our own. That was a quoted price. ~~and~~ I can't remember the name of the firm but I can certainly find out. It may be here somewhere.

Mr. Shibley: Now then, there are a group of documents; I'm not going to go into them in detail - I'm going to leave these for Mr. Grant. They are financial break-out figures.

Mr. Smith: Yes.

Mr. Shibley: Generally they are part of the estimating that was done at the time. Is that correct?

Mr. Smith: Yes.

Mr. Shibley: Yes. Now, as part of the estimating which you effected, did your people estimate the profit to Ellis-Don which would be realized on a lease-purchase transaction for a 30-year term based upon a cost of the construction of the building being \$26, \$28 and \$30 per square foot?

Did you make those estimates?

Mr. Smith: Yes, we made them.

Mr. Shibley: And in respect of a building costing \$26 per square foot for building alone, plus another \$6 per square foot for cost of financing and design, overall cost you of \$32 per square foot and with a rental rate that was quoted of \$4.48 per square foot, what did Ellis-Don estimate would be its profit over the term of this lease-purchase agreement?

L:
12

H-617 to follow

(Mr. Shibley)

~~that the Mills-Dow estimate would be 10 percent over the term~~
of this lease-purchase agreement?

Mr. Smith: I just have to check this with Dave.
That is on eight and three-quarters?

Mr. Grant: That is right, but subsequent to putting
our proposal in, we amended our interest rate to Hydro and we
amended our rental rate to Hydro to $\frac{3}{4}\%$ 5.

Mr. Smith: No, but I think Mr. Shibley wants to
know on the eight and a quarter, on the first figure. That
is roughly the same figure. ~~We Grant said before~~ We
had various figures, at eight and three-quarters and eight and
a quarter, and Mr. Grant said $\frac{3}{4}\%$ 10.7 million after 30 years.

Mr. Shibley: ~~That would be before-~~
tax profits?

Mr. Smith: No, that is after-tax profits?

Mr. Shibley: After tax?

Mr. Smith: Yes.

Mr. Shibley: And in the case of your firm, were you
expecting to be able to take depreciation ~~on~~ the capital cost
of the building?

Mr. Smith: Yes.

Mr. Shibley: So ~~that~~ would there be, in fact, any
tax payable in those circumstances?

Mr. Smith: I think you should check with Dave,
there is tax payable after some number of years. ~~I've~~ I've
the print-outs on them.


Mr. Shibley: But the figure you have ~~given~~ is an
after-tax profit based upon your firm being ~~allowed~~ to take
capital cost allowance on the building?

Mr. Shibley: Mr. Grant, I want to be c
one statement you made earlier. Did you say that at
per square foot that was closer to the overall cost of \$3

Mr. Grant: Yes.

Mr. Shibley: Than \$28?

Mr. Grant: Fairly much so, so far. The ^{1/2}28
construction cost, adding interim ~~3000~~ financing, fees and
~~architectural fees came to \$25 per square foot~~



(Tape H-618 follows)

H - 618 - 1

(Mr. Grant)

~~construction costs adding interim financing fees and~~
architectural fees, comes to \$35 a square foot overall.

Mr. Shibley: Well then can this committee take it that when Ellis-Don made a submission at \$26 per square foot construction costs, that equates fairly closely ^{with} ~~the~~ \$34 per square foot overall costs as quoted by Canada Square?

Mr. Grant: Yes.

Mr. Shibley: And what was the rental rate that was in contemplation at \$26?

Mr. Grant: On the upgraded mortgage interest expense of eight and three-quarters?

Mr. Shibley: Yes. The original rental rate was ^{#4.46} ~~\$4.48~~. It was subsequently increased by reason of the increased rent interest rate?

Mr. Grant: Right.

Mr. Shibley: To what figure?

Mr. Grant: \$4.65 a square foot.

Mr. Shibley: I see, So that in order to ^{make} ~~have~~ a comparison it is \$4.65 as compared to the \$4.94 of Canada Square?

Mr. Grant: Yes.

Mr. Shibley: Based on the same overall cost of the building?

Mr. Grant: ^{Very} Close, yes.

Mr. Shibley: And the profit that is computed on that ~~figure~~ ^{figure} of transaction was the \$10.7 million that Mr. Smith has mentioned, Is that correct?

Mr. Grant: No, Mr. Smith gave you \$10.7 ^{million} ~~which~~ was based on our original financing figure and our original ~~rent~~ rent figure of \$4.46. We have subsequently gone to the eight and three-quarter per cent financing expense and the \$4.65 rental rate per square foot. We have calculated it on two bases. One, spreading the tax effect of the interim financing expense

(Mr. Grant)

over ^{the} a number of years it took out to wipe those years' expense, the reason being to take a conservative approach to it, saying that the interim financing expense Ellis-Don might not necessarily have income to offset it. So if you spread it simply against that one building's income as an expense, it comes out with a totally different net income after tax over 30 years.

If you were able to write the entire interim financing expense off in the first year to taxable income you would get a much more substantial income effect.

Mr. Shibley: Do you have those figures?

Mr. Grant: Yes, I have it done on both bases.

Mr. Shibley: Would you give them to us please?

Mr. Grant: If we were to ~~use~~ spread the tax effect of the interim financing, using the term that this building was the only building from which Ellis-Don had income, over the 30-year period they would earn \$9,200,000 ⁱⁿ after-tax profits.

If they were able to write it off in the first year against other taxable income, in its entirety, they would earn \$13.5 million after tax.

Mr. Shibley: Thank you, Mr. Grant. I don't think it is necessary, Mr. Chairman, to get the other figures because Mr. Grant has indicated to the committee that the figure based upon a construction cost of \$26 per square foot really comes closest to competing with an overall cost of \$34 and that is the comparison I think this committee is interested in making, and you have, therefore, this firm's computation of the profits based upon a rental rate of \$4.68 at the increased interest ~~rate~~ charges that they were being confronted with. I think you have got about as much in that respect at this point as is possible.

Now, Mr. Smith, in connection with this kind of return to Ellis-Don, the whole of the financing for this project

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(Mr. Shibley)

was to be mortgage financing? In other words -----

Mr. Smith: Well, Wood/Gundy were going to float a bond issue.

Mr. Shibley: I am sorry, I used the wrong term.

There was to be no investment as such by Ellis-Don or by any of the developers in this building in the sense of putting up your own money?

Mr. Smith: No, ~~xx~~

Mr. Shibley: The whole of the moneys to be used to

~~construct this building were to be financed, is that correct?~~

Mr. Smith: ~~That is what we intended.~~

Mr. Shibley: ~~So it is quite impossible to -----~~

Tape H - 619 follows

June

3.20

N.T.

H-629-1

Mr. Shibley: ~~The plan of the building to be~~

construct this building were to be financed, is that correct?

Mr. Smith: That's what we intended.

Mr. Shibley: ^{So it is} Quite impossible to calculate a return

investment because there was no investment ^{as} ~~as~~ such →

Mr. Smith: That's right.

Mr. Shibley: → by any developer. Is that right?

Mr. Smith: That's right.

Mr. Shibley: And ⁱⁿ ~~the~~ same respect, there would be no risk to any developer respecting the investment of funds. I am not talking about other forms of risk^k, but in terms of →

Mr. Smith: Oh, I see; yes.

Mr. Shibley: — Investment of funds. There would be →

Mr. Smith: I agree ~~if~~ there would be other forms of risk though.

Mr. Shibley: The other forms of risk would be that the capital cost might exceed \$26 ~~per~~ per square foot to construct this building.

Mr. Smith: That's right.

Mr. Shibley: In that respect, I want to refer you to the agreement, which is Exhibit 2, at page 7, paragraph^s 6 and 7 of the document. I don't know whether you have had the opportunity to read this document, have you, Mr. Smith?

Mr. Smith: No.

Mr. Shibley: All right. I want to go over these paragraph with you, and I tell you now ^{that} ~~my~~ intention, when you are through reading it, is to ask you ^{and} ~~I~~ want you as you read it to consider whether you would ^{have} ~~be~~ been prepared to enter into commitments as open-ended as these provisions appear to be. I might tell you also that they are still open-ended in the sense that there have been no final approval^s of the specifications by Hydro. Now the provisions read:

June 10, 1973
3.20 to 3.25
M.T.

H-619-2

Mr. Shibley:

the size of the furnishing to be of the material specified in the preceding section, Canada Square shall in writing request the approval thereof and upon approval of Hydro of such drawings, location specs, including material to be used, details of location and site of axis points for construction purposes, proposed vehicular and pedestrian entrances and exits and construction time ~~schedule~~ schedule for the building and details of all ~~work~~ required to be erected, ~~as~~ signs, if any, ~~as~~ shall constitute the approved plans. 7. Prior to the approval pursuant to section 5 of the material referred to in section 5, Hydro may request such amendments herein as it may deem advisable, provided that such amendments do not result in structural or other substantial changes in the building as described in the preliminary plans and specifications. Any change in the building requested by Hydro prior to ~~its~~ its approval pursuant to section ~~of~~ 6 of the material referred to in section 5, ~~which is~~ ^{within} the intent and framework of the preliminary drawings and specs shall be for the account of Canada Square."

Now would you agree with me, Mr. Smith, that these are very open-ended provisions in this contract, insofar as the contractor is ~~concerned~~ concerned?

Mr. Smith: Yes.

Mr. Shibley: It is open to Hydro to stipulate for changes that might involve the builder in very sizable expenditures, is it not?

Mr. Smith: Well, I imagine you still live within the framework of the original specifications ~~and~~ -

Mr. Shibley: Subject to that general guideline, I suggest to you that these are very open-ended provisions under the terms of this contract?

Mr. Smith: Yes, but I don't think that the contractor is going to accede to ridiculous - I don't think it is meant that way - it just means that they can make changes, I would think, of a minor nature rather than a major nature.

H-619-3

June
3, 20
M.T.

Mr. Shibley: Would you have been prepared to
a contract with these terms ~~and~~ incorporated ~~these~~ therein?

Mr. Smith: I think you have to know with whom you
working really. On the Standard Life in Calgary we did make ~~an~~
as we went through and ~~and~~.

Mr. Shibley: Let's talk about dealing with Hydro. If you
were asked to enter into this contract with Hydro with those
provisions ~~incorporated~~ incorporated into the agreement, would you be
prepared to commit to this type of provision?

Mr. Smith: Yes, I think so.

Mr. Shibley: Now, then, I am a little bit concerned also,
Mr. Smith, to review with ~~you~~ you the charge for maintenance which
~~you computed to be~~.

Tape H-620 follows

~~Mr. Smith:~~

~~Mr. Smith: I am now willing to pay \$4.90 per square foot which~~
 you ~~conceded~~ to be 95 cents per foot as your cost, and for which you were intending a charge of \$1.23. And for the assistance of the committee, I remind the committee that ~~the~~ \$4.68 per square foot, was the rental rate which ~~the~~ equates with a \$34 overall cost of construction. That is not the evidence. And that \$4.68 is to be compared with \$4.90.

Mr. Genest: \$4.65.

Mr. King: \$4.65, Mr. ~~Shibley~~ Shibley.

Mr. Shibley: \$4.65, thank you, — \$4.90, which is ^a 25-cent per square foot disparity. I am wondering whether you can help us, Mr. Smith, whether a large portion of the differential between the \$4.90 of Canada Square and the ~~\$4.65~~ ^{\$4.65} that you have now established, being 25 cents, relates to the disparity in your thinking and their thinking as to the cost of maintaining this building, bearing in mind that they put in a figure of \$1.45 for maintenance?

Mr. Smith: We named \$1.23 and including profit, and maybe their \$1.45 includes larger profit really.

Mr. Shibley: My point, Mr. Smith, is that there is a 22-cent disparity in cost ^{or} ~~of~~ maintenance between the two proposals. There is a 25-cent disparity in the overall rental rate. Is it a fact that the real disparity in the proposal relates to the maintenance ⁿ ~~charge~~ charge in which figure I agree with you, the profit figure is also built in?

Mr. Smith: I don't think we... I am not sure I understand. I don't think we skimped on our maintenance, if that is what you are trying to get at.

Mr. Shibley: I realize that ^{is} ~~your~~ thinking, and we will have the benefit of your evidence and other people's evidence in that respect. I am concerned for the moment to try and identify the basis upon which there was a 25 cent disparity in the quoted rental rate.

Mr. Gaunt: Excuse me, on that point, Mr. Shibley, I make it 29 cents. \$4.94 minus \$4.65.

↓

Mr. Shibley: Thank you. Arithmetic is

I had a late night also.

Mr. Canale: \$4.92

Mr. Shibley: \$4.92 and \$4.55 in 27 cents.

Mr. Canale: \$4.92, which is 17 cents.

Mr. Shibley: Right. And the difference in the charge for maintenance is a difference between \$1.15 and \$1.23 or 22 cents. I am wondering whether it is that 22-cent difference in the estimated cost of maintenance ~~which~~ ^{that} makes up the bulk of the 27-cent differential in rental rates?

Mr. King: Mr. Chairman, I wonder in enabling Mr. Smith to answer the question ~~whether~~ ^{whether} ~~also~~ ^{also} advises him what financing rate was on the Canada Square. I understood it was 8 cent, as opposed to our 8-3/4.

Mr. Shibley: Yes, that's a good point, Mr. King, thank you.

Mr. Smith: I don't know ~~where~~ ^{where} we are light on the maintenance, ~~where~~ ^{where} the other people might.

Mr. Shibley: Mr. Smith, may I ...

Mr. Smith: I thought we had more into our maintenance.

Mr. Shibley: I'll tell you why I'm concerned about it. Yolles and Rotenberg put in a proposal wherein they advanced the figure of \$1.35 for maintenance.

Mr. Smith: Yes.

Mr. Shibley: And Marlson at \$1.40, I believe. And Canada Square at \$1.45. Relatively speaking, the \$1.23 does seem use your term, light. And I am interested to know whether that was one factor which created the spread between your rental and that proposed by Canada Square?

Mr. Smith: I am just wondering how much the other party had in for, if you want to ~~call~~ ^{call} it, profit or return on investment, really, because I thought we were rather light on that. And I think the only place you are going to bury it is that one item.

Mr. Shibley: I see.

Mr. Smith: You are going to bury it somewhere and they had more in it than we did.

H-620-1

Mr. Shibley: Notwithstanding that you were right, you were still estimating approximately a \$10 million profit.

Mr. Smith: We ~~thought~~ thought it was a good job.

Mr. Shibley: All right.

Mr. Smith: That's ~~all~~ we fought ~~about~~, I guess.

~~Mr. Shibley: That's all.~~

so heard,

H-621-1 Follows

June 20/73
3:30-3:35 pm
PLO

~~(Mr. Shibley)~~

~~Mr. Shibley: How you know now that there was a pro-rating~~

~~of the submissions made by the various developers. Have you~~

~~any comments to make respecting the process, for comparison?~~

Mr. Shibley: How you know now that there was a pro-rating of the submissions made by the various developers. Have you any comments to make respecting the process, for comparison?

Mr. J. D. Smith: Well, it seemed like—I think you know what I think of that.

Mr. Shibley: I know what you think of it but I think the committee wants it as a matter of record ~~what~~ what you think *of it*

Mr. Chairman: We want to know what ~~a~~ you think of it and why.

Mr. ~~Smith~~ Smith: Well, I think they were trying to find a way to -- I don't know how you can pro-rate anything that way. I don't know how you can pro-rate anything without seeing plans and specifications on a building. I don't know how you can judge it at all, and I think that there was an effort ^{to} worked toward the desired answer.

Mr. Shibley: Have ~~you~~ you ever experienced this sort of treatment on other submissions for other projects?

Mr. ~~Smith~~ Smith: No.

Mr. Shibley: After you submitted what you thought was your preliminary proposal, did you have any follow-through with representatives of Hydro?

Mr. ~~Smith~~ Smith: After we submitted it?

Mr. Shibley: Yes.

Mr. ~~Smith~~ Smith: I certainly met with Mr. Candy on the date, that we mentioned and I would think there were quite a few phone calls to Mr. Candy. He might remember them as well as I do. We were fairly persistent in trying to find out what was going on and where it stood and we pursued it rather vigorously I guess.

Mr. Shibley: Mr. Smith, when were you first aware that you were no longer in the running for this project?

June 20/73
3:30-3:35 pm
PLG

Mr. Smith: My enthusiasm gained, I guess, and then faded. I got enthusiastic and then it sort of ~~was~~ died off and I think by July or June I sort of realized there was no hope, because I couldn't find out anything and I heard rumours that there was no hope right from very early on in it. We questioned Mr. Candy on it and were told that there ~~was~~ ^{were} no decisions and they hadn't made up their mind and that sort of thing.

Mr. Shibley: You had indicated earlier you thought that this submission was really of a preliminary nature?

Mr. Smith: Yes.

Mr. Shibley: Were you not curious that more precise specifications were not submitted and you asked for a more precise submission?

Mr. Smith: I don't think I asked for a more precise submission. In the back of my mind I thought that they would come out with a more detailed proposal and specification and then probably ask three or four desired developers to submit plans, specifications and drawings, or plans and specifications; then probably they would judge on that. I thought that would be the logical way and I thought they might do that.

Mr. Shibley: I am producing to you what is now Exhibit 169, being a letter dated August 21, 1972, from yourself to Mr. Seguin. Do you remember preparing that letter?

Mr. Smith: Yes.

Mr. Shibley: Now what led you to write to Mr. Seguin as one member of the Commission?

Mr. Smith: I wanted to find out what was going on and I thought there might still be a little bit of hope of reviving it since there had been no public announcement, as long as there had been no public announcement, you feel you still have a chance, so I thought I would write to Mr. Seguin. Someone told me that he was a straight-shooter and he would give me a straight answer.

Mr. Shibley: You had never met Mr. Seguin? *Do you know him?*

Mr. Smith: No, I had never met him and I wouldn't know him to see him.

Task Force Hydro in this respect.

Mr. ~~Smith~~ Smith: Yes, I think that is where I got the name.

Mr. ~~Smith~~ Smith: Yes.

~~2. Sequin 5.00~~

~~Handwritten scribbles and lines, possibly representing a diagram or a heavily crossed-out page.~~

Tape H 622 follows

June 20, 1973
3.35-3.40 p.m.
M.F.

H - 622 - 1

~~(Mr. Shibley)~~

~~and was in on task force Hydra that gave you Mr. Seguin's~~

~~name?~~

Mr. Smith: I think it was Dick Dillon.

Mr. Shibley: And he suggested that you write to Mr.

Seguin?

Mr. Smith: No, I called him and asked him if he could suggest somebody I might write to, and he said he heard Mr. Seguin was a good type and I should write to him. He didn't suggest I write to him, I asked him who I could write to and gave me the name.

Mr. Shibley: I would like to go through that letter with you, Mr. Smith.

Mr. Renwick: May I just interrupt for a moment? You say you think it was Dick Dillon. Was it ~~that~~ Dick Dillon directly that you made the contact with, Mr. Smith, or your organization?

Mr. Smith: No, I would say it was Dick Dillon. To the best of my recollection.

Mr. Renwick: ^{It was Dick Dillon, directly?} It wasn't Jim Fleck?

Mr. Smith: No, I don't know Jim so it wouldn't be him.

Mr. Renwick: We can take it, Mr. Smith, that it was Dick Dillon for the purpose of our considerations?

Mr. Smith: I would say so.

Mr. Renwick: Mr. Smith, you are the only one that can say.

Mr. Smith: I say yes. If he says I didn't call him then I -- but I would say it was Dick.

Mr. Shibley: All right, so now -----

Mr. Smith: But I called him and I initiated it and I think it was right about that day. I just wondered if there was any hope, so I thought I would drop him a line as a last resort.

Mr. Shibley: In your letter - I am sorry, Mr. Renwick, are you through?

Mr. Renwick: Yes I am.

Mr. Shibley: ~~Right~~. In your letter, Mr. Smith, you state, "Verbally, we were given a specification ^{to} quote on ~~is~~ and we were told not to work too hard on the proposal, which led us to believe that it was somewhat of an exploratory nature".

Now are you still of the view that when you were told not to work too hard on the proposal that it was because the matter was of an exploratory nature?

Mr. Smith: I beg your pardon? I misunderstood.

Mr. Shibley: When you wrote this letter ^{and said} "we were told not to work too hard on the proposal," who told you that?

Mr. Smith: Mr. Candy.

Mr. Shibley: And you went on and said, "which led us to believe that it was somewhat of an exploratory nature". Do you see that?

Mr. Smith: Yes.

Mr. Shibley: You have already indicated to this committee that you believe that this was a preliminary type ^{of} effort.

Mr. Smith: Yes.

Mr. Shibley: In light of subsequent events, do you put any different interpretation upon what you were then told by Mr. Candy?

Mr. Smith: No.

Mr. Shibley: All right. "We were asked to quote rates on interest management charge, and ~~building~~ ^{building} costs. While we were putting together our proposal I checked with Hydro as the circumstances did seem odd and I asked if we would be given a fair appraisal when the proposals were all in". What did you mean by the phrase "the circumstances did seem odd"?

Mr. Smith: I found it difficult to understand how you could evaluate a \$40-million proposal on a one-page specification.

Mr. Shibley: Yes. Given to you verbally?

Mr. Smith: Yes.

Mr. Shipley: And when you said, "I asked if we would

get a fair appraisal," what did you mean by that?

Mr. Smith: I think what I said this morning, that

we were getting a fair shake on it when the proposals were

Mr. Shipley: Now, later on in the next paragraph you

said it would be quite easy for a developer to tell Hydro he

was building a \$30 per square foot building when, in fact, because

of his expertise he would be able to build a building for \$27..

(Creating) a large cash flow benefit to the developer." Now would
you expand upon that please?

Mr. Smith: We built an IBM building in London about -

it was only \$2.5 million and I gave the owner a price, I believe,

of about \$21.50 per square foot, and the owner was happy, I

told him I would build him the building, cost plus, not to exceed

this guaranteed lump sum which worked out to about \$21.50 a

square foot, and I would build it on a shared-savings basis, and

he was very honest



Tape H - 623 follows

June 20/73

3:40-3:45 pm

C.B.

(Mr. Smith)

~~shared savings building he was very honest, and~~
~~very~~ trusting, let's put it that way, ^{very} trusting owner
 and he gave me the contract and in the contract was a
 provision for him to audit my books. ~~and~~ At the end of
 the job he told us he was very pleased ^{and} the building was
 everything he wanted and he said he didn't want to
 audit our books, and I gave him a cash payment back of
 \$190,000, which he didn't expect, and I ^{had} quoted him
 \$21.50. He got his building, ^{and} he was ~~ready~~ ready to
 pay me \$21.50. He said he trusted me and he was sure
 he got value for his money. Actually, I built the building
 for about \$19-something a square foot. It is in the.

Mr. Shibley: Are you telling us, Mr. Smith, that
 with respect to the Hydro building by the exercise of
 expertise there could be a fluctuation ⁱⁿ in cost of construction
 just on that premise?

Mr. Smith: Certainly.

Mr. Shibley: What would the range of
 fluctuation be in terms of dollars per square foot?

Mr. Smith: I think it can ^{vary} ~~be~~ \$2 ^{or} \$3.
 It varied \$2 in this case, and the owner got a rebate
 and we got 20 or 25 per cent of it, which worked good
 both ways, and he still didn't audit our books.

~~Mr. Deans: Because of this type of fluctuation~~
 Mr. Deans: He may now.

Mr. Smith: I don't know what to say.

Mr. Shibley: Because of this type ^{of} fluctuation
 you proffered the opportunity to Hydro to audit your books?

Mr. Smith: I think on this type of thing it is
 the only way. We did on the Standard Life and we did for

(Mr. Smith)

Mr. Dennis ~~and~~ they audited our books ~~and~~ I think it is the only way they know what the real cost is going to be.

Mr. Shibley: All right. Then going on with the next page, page two, you mention that you heard rumours that Canada Square had already done work on elevations and plans for the building. This was during the second week in February. Now would the circumstance that Canada Square had received the drawings for the original building in August of 1971 and had had a few meetings with Mr. Candy to discuss plans for the new building, have provided that company with any advantage respecting the submission of a proposal?

Mr. Smith: I would say so. I think the fact that you have preliminary time gives you time to work up a design and get into the cost in much more depth.

Mr. Shibley: Yes.

Mr. Smith: I think the use of the original plans and specifications for the old building ~~would~~ would merely give you an insight into the Hydro's needs and I don't think that would be a great money saving ~~or~~ I think it would just be a little advantage in designing your building.

Mr. Shibley: I see.

Mr. Deans: ~~We~~ ~~would~~ ~~it~~ would also give you a fair idea of how much they were prepared to pay for a building?

Mr. Smith: No I don't think so.

Mr. Deans: Even though you have the designs and the specifications?

Mr. Smith: No, I think that ~~the~~ two different buildings are quite different.

Mr. Deans: No I'm not talking about two different buildings, I'm saying how much they were prepared to pay for the building that they had in mind.

June 12/72

3:40-3:45 pm

C.B.

Mr. Smith: Oh yes, it right. I hadn't thought of that.

Mr. Shibley: Mr. Smith, you were told, though, in July, 1971, that Hydro was expecting a cost of \$30 per square foot for the original planned building.

Mr. Smith: They would like to get it for \$30 or \$32, yes. They would like to get it for \$30 and they thought it might be \$32.


Mr. Shibley: The costing of that building was no secret.

Mr. Smith: ~~Yes~~ No.

Mr. Shibley: Is that right.

Mr. Smith: That's right. You're right.

Mr. ^{Walker} Shibley: ~~Now, concerning~~ Just one question perhaps here, you ^{may be} touching it or you may be passing on, but to what extent were the original Hydro plans, or in fact this model shown before us which reflects the original plans made available to you or to your staff, I should say during or prior to the period of January 1972?



H 624 to follow

~~through the period of January 1967.~~
Mr. Smith: During ~~the~~

Mr. Walker: During ~~the~~

Mr. Smith: We didn't do anything; we didn't do anything before January 5. We just had that meeting with Mr. Candy; I never went back and talked or did anything. I did walk through the old Hydro building and talked to Bob ~~Smith~~ Tamblyn about how much it would cost ~~for~~

Mr. Walker: Did you have access to either that set of plans and/or the ~~plans~~ ^{plans} before that?

Mr. Smith: During the time of tender, ~~the~~ Mr. Walker, I think probably we could have during that two-week period. I think we probably could have seen the plans and specifications but we didn't have time to get into that ~~detail~~ ^{detail}.
~~BUT THE MODEL WAS THERE~~

Mr. Walker: Did you see the model?

Mr. Smith: Yes, I saw it each time I was in.

Mr. Walker: And what about the plans themselves? Now, ^{staff} did any of your ~~members~~ review the ~~plans~~ architectural plans?

Mr. Smith: NO, not to my knowledge, no.

Mr. Walker: Were they offered to you at all during that two-week-or-so period?

Mr. Smith: I wouldn't say they weren't or were. I think probably they were, but they were just no ~~it~~ ^{it} wouldn't help us with that proposal because we were into ~~too~~ ^{big} big ideas rather than a small

Mr. Walker: So ~~that~~ in fact they ~~would~~ ^{would} have been of no use to you at all.

Mr. Smith: Not in a two-week period, no.

Mr. Walker: And ~~in a~~

Mr. Smith: ^{In a} Two-week period, we were into bigger things than that.

Mr. Walker: ^{are you saying that} And if you had some amount of time more than two weeks, they would've been of some value to you?

H-624 - 2

Mr. Smith: I think you could've got into Hydro's needs ⁱⁿ a little more depth and seen ~~the~~ the space and layouts and that sort of thing. I think they would've been of some help.

Mr. Gordon: I am trying to define "some" which is a very difficult thing to define in this case. I rather get the feeling that those plans weren't ~~of~~ particularly ^{of} any use to anybody unless he were quoting on that particular building.

Mr. Smith: Well, no, I think they would give you as far as executive office space and medical things and that, but it's not a big help.

Mr. Walker: But those things were defined in the specs. verbally given and ultimately given by Mr. Candy in writing, were they not?

Mr. Smith: Oh sure.

Mr. Walker: So those were ~~the~~ ~~plans~~

Mr. Smith: Well, you'd see the layout; there was a lot of input ~~put~~ into those drawings and you'd see what input had gone into it, and it might help you.

Mr. Walker: Frankly, I tend to think that one of the best things that Hydro has done recently is not build that particular one, but that's a taste question.

Mr. Shibley: If I may carry on with ~~the~~ your letter, then, Mr. Smith. YOU said in paragraph three on page 2, last sentence: "It seems like a peculiar way to call tenders when you are only given a verbal specification to quote on on such a large project. It seems as if one person had the inside track whereas none of the other people ~~kn~~ knew what was going on.

What did you mean by those ~~statements~~ statements?

Mr. Smith: Well, there had been rumours around in the industry that Canada Square had the job, ~~and~~ I think that was the inference there.

Mr. Shibley: And is that all you ~~a~~ want to say about that observation?

Mr. ~~Smith~~ Smith: Well, I think that's ~~an~~, I talked to Ken Rotenberg and he didn't ~~an~~ well, I said that about ~~..~~

Mr. Shibley: All right. Then in the next paragraph, the last sentence: "It is very disappointing, if true, that if we had no chance to be successful right from the beginning." Did you have the view at the time you wrote this letter that the whole of the exchange with you and Hydro had been a mere exercise?

Mr. Smith: ~~Yes~~ I did when I wrote the letter, yes.

Mr. Shibley: You had that view?

Mr. Smith: Yes.

Mr. Shibley: And that there ~~was~~ was never any real intent on the part of Hydro to negotiate seriously with you as a developer for this project?

Mr. Smith: That was my opinion when I wrote this letter.

Mr. Shibley: Is your opinion today ~~any~~ any different?

Mr. Smith: NO, it's still the same.

Mr. Shibley: All right. And I note, then, you go on to say ~~I~~ I like your phrase, I might ~~say~~ tell you, "We are used to winning or losing, providing we know the rules." What do you mean by "knowing the rules"?

Mr. Smith: ~~When~~ ^{it's a rule} Ellis-Don ~~is a rule~~ ^{is a rule} tenders on nearly all ~~its~~ work, ~~and~~ everything is laid out in plans and specifications, and if you are a ~~low~~ low bidder, you get the job, and if you are not a low bidder, you don't get it. And so you know the rules, and ~~you~~ you know exactly where you stand all the time in all projects.

Mr. Chairman: Mr. Shibley, I'll just pick it up here now. You say ^{"I know the rules"} you know the rules. Maybe that's one of the reasons you ~~didn't get the job because you didn't know the rules~~.

June 20/73
3:50 - 3:55 pm.
H.B.

(Mr. Chairman)

~~Mr. Smith: May I just ask you, because you know the rules, how did you know that you didn't get this job, because you didn't know the rules?~~

Mr. Smith: I don't know why I didn't.

Mr. Chairman: Well, you see, you stated earlier ~~that the Hydro had wanted~~ that the Hydro had wanted a real firm proposal. Now, evidently they didn't get a real firm proposal from you.

Mr. Smith: In what way?

Mr. Chairman: That could be because you were not familiar with this kind of ~~lease~~ ^{-purchase} arrangement.

Mr. Smith: Oh, I think I'm well versed in these.

Mr. Chairman: Well, ~~you were not~~ for the most part, was not your field of business where you were given a set of specifications ~~to~~ ^{and you} built to those specifications, rather than --

Mr. Smith: Well, you can get a set of specifications on a proposal call too; ~~we~~ we've done a lot of that. We built the residence for the University of Western Ontario on a proposal call and put in the best proposal call and probably one of the best the ever had, on a proposal call. It wasn't plans ~~on the~~ ^{and} specs, it was a proposal call. We designed the building; costed the whole darn thing and built it. And that's ~~what~~ ^{what} got the Ontario Student Housing going, on that proposal business. We were the ones ~~who~~ ^{who} started it with them. And that was a proposal.

Mr. Chairman: You are saying that you had had some experience then in this lease-purchase field?

Mr. Smith: We've had lease-back, ~~not~~ ^{and} lease-purchase. We haven't done ~~where~~ ^{any} anybody ~~has~~ ^{has} bought it back for \$1. We've done the Pilkington where they've bought it. We're building one ~~and we've~~ ^{and we've} got another office contract that's going to be announced tomorrow, where we're buying the land and renting it and financing the whole thing.

Mr. Smith: I've never seen specifications ~~sent~~
out ~~on~~ one sheet of paper for a \$40-million contract in my life.

Mr. Chairman: 121 - 206

Mr. W. Newman: Mr. Chairman, just so that I may
ed. In January of 1972 had you ever done a
agreement with anyone?

Mr. W. Newman: But lease-purchase, that's what I want to clear up. Had you ever done any lease-purchasing agreements?

as the basic difference between the leasing of a building under lease-purchase, and the leasing of a building under lease-backs.

Mr. Stone: ~~_____~~ in your mind, having gone through this procedure, do you see any basic difference?

[illegible]

[Faint, illegible text]

See you see these photographs?

Mr. Soltley 100

Mr. RO. Nelson. Would they be of any interest to the committee?

Mr. Shibley: They are in the original submission, Mr. Hodgson. We didn't have them reproduced. Perhaps, for everyone's benefit, these are the buildings to which reference -- can you see them?

Mr. G. Hodgson: Yes, but they're the ones that he had built.

Mr. Chicago: Yes, this is the Thompson Building.

Mr. G. Thompson They are out of a new building.

life building, and so on. There are buildings that were exemplary of the type of construction built before war construction.

Mr. C. C. Holman. The other question I would like to ask with regard to the letter just read. ~~Would you~~ (Would you ask the witness, did he receive it from the person to write this letter to, Mr. Seguin, the day that you say it was?

Mr. Shilow: I am just going to ask him that when the Chairman wanted to ask some questions. Did anyone in any manner follow up with you on your letter to Mr. Seguin?

$$\frac{d}{dt} \left(\frac{\partial L}{\partial \dot{x}} \right) = \frac{\partial L}{\partial x} \quad (1)$$

Mr. Shioley: When did you first receive any
form of notification that the contract had, in fact, been let
to Canada Square?

Mr. Smith: I received a letter from the office

Mr. Shioley: What was the letter from the office?

you knew that Canada Square was the contractor?

Mr. Smith: Yes.

Mr. Shioley: Did you know that Canada Square was the contractor?

~~Mr. Deans: I might say I'm a little concerned because~~
~~Mr. Deans asked about the difference between lease-purchase~~
~~and lease-back. As I understand it, Mr. Deans, there may be~~
~~a difference in this respect. When you're dealing with a lease-~~
~~back transaction there is an existing building the value of~~
~~which may be introduced into the agreement as something other~~
~~than the true market value; you may create a fictional value~~
~~for the building for purposes of lease-back transactions. It~~
~~all works out to a cost of money type transaction.~~

Mr. Shibley: I might say I'm a little concerned because
Mr. Deans asked about the difference between lease-purchase
and lease-back. As I understand it, Mr. Deans, there may be
a difference in this respect. When you're dealing with a lease-
back transaction there is an existing building the value of
which may be introduced into the agreement as something other
than the true market value; you may create a fictional value
for the building for purposes of lease-back transactions. It
all works out to a cost of money type transaction.

In a lease-purchase transaction, what is happening is
that a building yet to ~~be~~ exist is to be constructed and purchased
and the cost of that building is a realistic figure as opposed
to the fictional, sometimes ^S fictional figure, in a lease-back
transaction.

I would like you to ~~reconsider~~ ^{thinking} your ~~position~~ in that area
until perhaps Mr. McGowan is in the witness box to expand on it,
but I think some care might be taken.

Mr. Deans: I guarantee you I will be happy to get on open it.

Mr. Shibley: Thank you. Now, getting back.

Mr. Penwick: But bearing in mind what ever ~~the~~
the ~~various~~ distinctions may be, Mr. Shibley, I thought
Mr. Deans' point was directed to the fact that a person knowledgeable
in the field of dealing with land, building, financing money
and so forth would have no difficulty coming up with a scheme
which could be designated lease-back, lease-purchase, depending
on what the language was.

Mr. Shibley: Mr. Penwick, I think that's quite true,
and when Mr. Grant gives his evidence you will find that basic
to all of these proposals, whatever ~~language~~ ^{you} you want to give them,
is the financing of it. It's the cost of lending money.

in the case of a building to be constructed, including the
construction of a building with a large number of buildings.
The experience would make you well qualified to do the
of construction.

Mr. Smith, you've been asked to do the work of
constructing a number of buildings. Have you made any
made contributions to political parties, locally
or federally?

Mr. Smith: Yes.

Mr. Shibley: I've asked you to compile a statement
of such contributions. Have you done so?

Mr. Smith: I think I have it here.

Mr. Shibley: Would you produce that, please? Are you

prepared, without objection, to make that statement?

Mr. Smith: Oh yes.

Mr. Shibley: What are the particular contributions you make?

Mr. Smith: Yes.

Mr. Shibley: Mr. Smith, would you like to see the

next exhibit.

Mr. Chairman: Exhibit number 17.

Mr. Shibley: I am going to ask you to look at this
have them done. Have you ever done any of these things?

Mr. Smith: Yes, I do.

Mr. Shibley: Do you have any other contributions?

Mr. Smith: No, I just have the one.

Mr. Shibley: All right. I will go through this with you.

This is a statement of political contributions made by
the period March 1968 to February 28, 1970. This covers all
federal and provincial, and I will go through with the details
of the contributions made, and I will go through with the details
of your firm's contributions during the period March 1, 1968
to February 28, 1970.

June 20, 1973
6:00 - 4:05 p.m.
A.B.

(Mr. Shibley)

~~Conservative Party~~ - \$9,000; of the
Liberal Party - \$10,850. ~~There is~~ ^{nothing} ~~for~~ the NDP.

Mr. Deane: Aren't you ashamed of yourself?

~~Shibley~~ Now we know why you didn't get the
contract.

Mr. Chairman: I think the NDP came out the
winners on this one.

~~Mr. Deane~~ ~~Shibley~~ ..

Mr. Shibley: Provincially, the grand total of
contributions to the Conservative Party over the same period
of time was \$8,500 and to the Liberal Party \$2,200.

Is that correct?

Mr. Smith: That is correct.

Mr. Shibley: And again no column for the NDP.

Mr. Smith: ^{yes} ~~yes~~ I didn't know these gentlemen
at that time.

Mr. Shibley: Now you are talking like a
politician.

Mr. Deane: You will be filling ~~in~~

Mr. Shibley: Are you prepared to make a pledge
today?

Mr. Smith: I think in all fairness, yes.

Mr. Shibley: All right.

Mr. Deane: Do you give union leaders?

Mr. Smith: All the way.

Mr. Deane: Well, then we ~~have~~ got something

Shibley:

Mr. ~~Smith~~ So that ~~is~~ ^{yes} ~~yes~~ - by the way,

I ask that that be made an exhibit, Mr. Chairman.

Mr. Chairman: Exhibit 171

Mr. Shibley: The only reason I put this question to
~~Mr. Deane~~ ~~was~~ to put it to one of the developers affected, is
I gather that it was not on record at any time to be a

3301031

Mr. Smith: No.

Mr. Smith: No.
Mr. Shibley: Or that the fact that Mr. Moos was a friend of Mr. Davis was a circumstance affecting the workings of Hydro? Do you have any ~~information~~ ^{information} to that effect?

Mr. Smith: No.

Mr. Shibley: Now, then, —

Mr. Shibley: Now, then, ~~Mr. Shibley~~
Mr. G. Hodgson: Mr. Shibley, just before you leave
that, would you inquire of the witness how he do check-offs
for the NDP? ~~He does~~

for the IDP ~~_____~~
Mr. Daniel I just do fear that we ~~_____~~
~~everything~~ from the construction industry ~~_____~~

Mr. J. H. Haddock: 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857

2475422

Mr. Remond
Mr. Dugoni

Mr. A. J. Hodges

1. The first part of the document is a list of names and dates, which appears to be a roster or a list of participants. The names are written in a cursive script, and the dates are written in a more formal, printed style. The list is organized into two columns, with names on the left and dates on the right.

made, Mr. Zibley?

Mr. Bishop: Yes, please.

Mr. Shipley: Yes, I did.
Mr. Chairman, I would like to mention to the next document I intend to review with you. It is a newspaper article dated April 11th, 1971, published in the Times and Mail and apparently authored by Mr. [redacted] of that newspaper.

June 20, 1973
4.00 - 4.05 p.m.
M.R.

(Mr. Shibley)

...Perhaps we might make that the next exhibit.

Mr. Chairman: 172 - the newspaper article of the 30th of April.

Mr. Shibley: Mr. Smith, have you read the article which is now Exhibit 172?

Mr. Smith: Yes.

Mr. Shibley: ~~and~~ In respect of the information outlined therein, ~~and~~ I will go over with you in some detail, did you give Mr. McAuliffe an interview?

Mr. Smith: Yes, I did.

Mr. Shibley: Now, prior to that interview, did you have a previous telephone communication with Mr. Manthorpe of the Globe and Mail?

Mr. Smith: Yes, I did.

Mr. Shibley: When was that?

Mr. Smith: I don't recall ~~but~~ I just ~~know~~ don't recall. ~~I would say about maybe the end of November of 1972~~

H-628 to follow

Mr. Smith)

I would say about maybe the end of
November '72 or 1st of December, I am not sure, he might know
better than I, in that area. It ~~was~~ after an article appeared
in the Globe and Mail.

Mr. Shibley: What article was that?

Mr. Smith: There was an article he wrote about
the Hydro building, I believe.

Mr. Shibley: And was the information you imparted
to Mr. Manthorpe substantially the same as you later imparted
to Mr. ~~McAuliffe~~ McAuliffe?

Mr. Smith: No.

Mr. Shibley: All right, what was the tenor of your
discussion with Mr. Manthorpe in November of 1972?

Mr. Smith: I called Mr. Manthorpe and I did not
give my name, and I think I said he was on the right track. I
really don't recall exactly what I said to him, I think I told
him to keep going, I thought he was on the right track on this
Hydro deal. *I might have*

Mr. Shibley: What did you mean by that?

Mr. Smith: Well, I didn't think it was all above
board at the time and he brought out some facts. I might have
given him some facts, but I honestly don't recall, and I did not
give him my name and I told him I would call him back. I
called him back and they were very short conversations and I can't
recall giving him much information. But I won't deny I called
him.

Mr. Shibley: I realize that.

Mr. W. Newman: Excuse me, ---

Mr. Shibley: What facts had Mr. Manthorpe brought
out in this article? You say you called him to say he was on

June 20/73
4.10-4.15 p.m.
E.M.

H-628-2

(Mr. Shibley)

the right track, and you —

Mr. Smith: I just thought — I thought that the contract was a setup for Mr. Moog. So I probably called him and said I thought it was a setup all the way too. I don't just recall what I said to him at the time.

Mr. Shibley: Was this brought about by reason of your having read something written by Mr. Manthorpe?

Mr. Smith: Yes. As a result of having read an article that he ~~was~~ ^{wrote} in the Globe and Mail.

Mr. Shibley: Yes, ^{I see.} ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Mr. Smith: You might recall it; I don't recall what it was.

Mr. Shibley: All right. Now, then, other than what you have told us, you said to him, did you say anything further?

Mr. Smith: To him?

Mr. Shibley: Yes.

Mr. Smith: I remember calling him back and I can't recall if I told him anything at that time; I think I said I would call him back and see if he wanted any information.

Mr. Shibley: Did you have any discussion with him about any communication to you that you should not complain or voice criticism because you were engaged in ~~doing~~ doing government contracts?

Mr. Smith: I could have. That would prob-
my reason for not telling him who was calling.

Mr. Shibley: In the ^{course} ~~of~~ of
him, did you use the term "threaten";
threatened not to say anything, otherwise

(Mr. Shibley)

another government contract?

Mr. Smith: No.

Mr. Shibley: You never used that term?

Mr. Smith: No, no!

Mr. Shibley: Did you mention the fact that you were involved in doing government contract work?

Mr. Smith: I don't think so.

Mr. Shibley: I see.

Mr. Smith: I would say no.

Mr. Shibley: Have you told us all that you can remember as to what you said to him?

Mr. Smith: To Mr. Manthorpe?

Mr. Shibley: Yes.

Mr. Smith: Yes.

Mr. Shibley: Can you tell us now what he said to you, if anything?

Mr. Smith: Oh, I think he thought there were peculiar circumstances around the letting of the Hydro contract and that they were working on it.

Mr. Shibley: I see. Now, did you have any further communication with anyone from the Globe and Mail pending your

~~interview with Mr. Manthorpe?~~

(Tape Hp629 follows)

H-629-1

(Mr. Shibley)

~~Mr. Smith: Yes, I interviewed Mr. McAuliffe?~~

Mr. Smith: Yes, I ~~interviewed Mr. McAuliffe?~~
wrote Mr. Manthorpe a letter, and he received an award, or
a scholarship, and I wrote him a letter and said, "Congratulation
on receiving the scholarship".

Mr. Shibley: Yes.

Mr. Smith: I can't recall what else I said. I don't
have the letter with me. I have ^{ditto} forgotten ~~that~~ I wrote
it and I am sure I have it in the file at the office.

Mr. Shibley: Did you in that letter identify
yourself to him as the person who had previously communicated
with him by phone, in November, along the lines you have
detailed to us today?

Mr. Smith: I don't think so. ~~I don't remember~~
I can just remember writing him, I can't remember the detail
in the letter and I don't think I did identify myself at that time.

Mr. Shibley: All right. IN any event, you do now
identify yourself as having made that communication with him?

Mr. Smith: Yes.

Mr. Shibley: Okay. All right then. Your next
communication with ~~anyone~~ anyone from the Globe and Mail
was when you were interviewed by Mr. ^{Mc}Auliffe, is that correct?

Mr. Smith: Yes.

Mr. Shibley: Prior to that interview by Mr.
McAuliffe, did you have any forewarning that you might
expect such an interview to be attempted?

Mr. Smith: Prior to that interview?

Mr. Shibley: Yes.

Mr. Smith: Yes.

Mr. Shibley: What was the nature of the communication
to you ~~concerning~~ to ~~expect~~ a contact from someone at the
Globe and Mail?

Mr. Smith: I had a phone call from a close friend who said that the matter would be coming up in the House and that I might be getting a call from the Globe and Mail.

Mr. Shibley: When did you receive that communication?

Mr. Smith: I thought it was in January and when I checked with the person who made the call to me, it was in December, 1972.

Mr. Shibley: In December of 1972? Now you say you received a phone call from a close friend telling you to expect this contact?

Mr. Smith: He said it might be coming up in the House about Hydro and I might be getting a call from the Globe and Mail.

~~Mr. Shibley:~~ Mr. Shibley: Did he say anything more to you?

Mr. Smith: No.

Mr. Shibley: Did he in particular caution you against discussing the matter with the Globe and Mail?

Mr. Smith: No, he did not.

Mr. Shibley: Did he express himself in any respect, I am sorry, I will start again. Did he make reference in his conversation with you to the circumstance that you were engaged in doing a large number of government jobs and that your opportunities to get these jobs might be affected if you gave such an interview?

Mr. Smith: NO.

Mr. Shibley: Other than that communication,

Mr. Bullbrook: Excuse me, before you leave that communication, is there some reason in counsel's mind for not identifying the close friend?

Mr. Shibley: I had, frankly, Mr. Bullbrook, waited upon the witness's answers to ascertain whether the identify of the person was material. If he had said, "yes" to any of the last series of questions, then I would have thought it necessary to ask him who that person was. I am not through

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(Mr. Shibley)

deliberating internally as to whether the question should be put to the witness.

Mr. Bullbrook: I am sorry.

Mr. Shibley: I would like to wait upon a little later in my examination of the witness before^e I finally make that decision.

Did you receive a communication from any other person ~~person~~ during this interval referable to the pending interview with the Globe or otherwise?

~~Mr. Shibley: No.~~

H-630 follows

(Mr. Shibley)

~~The pending interview with Mr. McAuliffe?~~

Mr. Smith: No. I did not.

Mr. Shibley: Then I want to take you down to the time of the interview with Mr. McAuliffe. Was that shortly before April 30, 1973?

Mr. Smith: I believe it was April 7.

Mr. Shibley: April 7?

Mr. Smith: I believe it was.

Mr. Shibley: How was that arranged?

Mr. Smith: I received a telephone call from Mr. McAuliffe

and he asked if he could see me.

Mr. Shibley: Did you readily agree to giving him an interview?

Mr. Smith: Yes.

Mr. Shibley: Did he come to see you?

Mr. Smith: He came to our office in London.

Mr. Shibley: Yes. Now looking at the article itself

it starts off;

"The developer who got the contract ~~had~~ had a nine-month jump on his competitors in preparing the plans".

Did you provide him with that information?

Mr. Smith: No.

Mr. Shibley: Did he tell you that this was the situation?

Mr. Smith: I believe so.

Mr. Shibley: "One of the three unsuccessful developers had only 19 days in which to prepare his proposal". Was that you?

Mr. Smith: Yes.

Mr. Shibley: "Hydro finally produced written specifications but they are dated February 1, 1972, one week after the deadline. Canada Square had, since the spring of 1971, detailed architectural drawings for a head office design which had been scrapped". Then later on;

"However, the design and architectural drawings ~~that~~ would have revealed in great detail ~~the~~ Canada Square ~~that~~ Hydro's

requirements were in the way of a new head office".

to

Mr. Shibley: You didn't give him that? That is a

conclusion he reached otherwise than from anything you told him

Mr. Smith: That is a very obvious conclusion, yes.

Mr. Shibley: Do you agree with it?

Mr. Smith: I agree that ~~was~~^{has been} given great detail, yes.

I am not sure how much value it would be.

Mr. Shibley: "On the other hand, Hydro's late written specifications were described by the spokesman for one of the competing developers as 'so general as to be almost useless'." Is that a quote of something you said?

Mr. Smith: I wouldn't say "yes" or "no" to that sentence. I certainly could have said it, and so could the others I think

Mr. Shibley: Then there is a sub title:

"Told To Keep Mouth Shut"... Opposition leader Robert Nixon has raised numerous questions in the Legislature in recent months about the dealings between the provincial government and development companies ~~are~~ owned by millionaire Toronto developer ~~George~~ Gerhart Moog, who, Mr. Nixon says, is a friend of ~~the~~ Premier Davis". And it goes on: "An investigation into the three-year-old affair ~~revealed~~ that a senior executive of one of ^{the} three unsuccessful firms ~~had~~ bid on the project said, he was called several weeks ago by a source close to the Ontario Cabinet and high in the Progressive Conservative Party, and told the Globe and Mail was investigating". Now let stop there.

Did you tell Mr. McAuliffe that you had received a call from a
senior executive? I'm sorry, were you the senior executive to
McAuliffe is referring in that paragraph?

Smith: Quite possibly. Yes.

Q. And were you the person who said to him

...ed several weeks ago by a source ~~name~~^{code} to ...
...d high in the Progressive Conservative Party.

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Mr. Smith: I am not sure of my exact wording. I said I had been called by a person who knew what was going on. I imagine I said "close to the Cabinet."

Mr. Shibley: Are you saying you did say that the man who called you was close to the Cabinet?

Mr. Smith: Yes.

Mr. Shibley: And that he was high in the Progressive Conservative Party?

Mr. Smith: I could have said that. I am not sure if I did. I am not sure if he is high in the Conservative Party. I am not sure; that's why I said close to the Cabinet. I don't know if there is much difference really.

Mr. Shibley: Are we still talking about the same man?

Mr. Smith: Yes.

Mr. Shibley: That you referred to earlier as having called you to expect the communication from the Globe and Mail?

Mr. Smith: Yes. I imagine we are.

Mr. Shibley: All right. Then I want to pinpoint this a little further, Mr. Smith.

"And told the Globe and Mail was investigating".

So that helps identify it as the same person who

~~the same person who~~

10-11-12

Mr. Smith: ~~That's~~ right, that's right. That was not several weeks ago. I ~~have~~ said several weeks ago but as it turned out to be four or five months.

Mr. Shibley: I want, "I was told," and he quotes you, "I was told to keep my mouth shut or I would never get another government job." Now, did you say that to Mr. ~~Adams~~?

Mr. Smith: NO. I did not.

Mr. Shibley: Did you tell ~~him~~ him that you were doing government jobs?

Mr. Smith: NO, I don't think I said that.

Mr. Shibley: Well, Mr. Smith, did you tell him that you were told to keep your mouth shut?

Mr. Smith: NO.

Mr. Shibley: Well, Mr. Smith, in light of those answers, I feel ^{now} I must ~~ask~~ ask you, who was the person who made the communication to you?

Mr. Smith: Oh, John ~~W.~~ Cronyn.

Mr. Shibley: John Cronyn. Who is John Cronyn?

Mr. Smith: John Cronyn is a next-door neighbour of a ~~business~~ company and he is working with ~~over~~ some sort of reorganization.

Shibley: And I take it that as a neighbour and, as you've said, a close friend of you

That's right.

Did he tell you at the time he came to you now that the Globe and Mail might

Give that day that it was

there was an article in

that was the thing.

Smith
Mr. ~~Shibley~~: When was the claim issued to the hospital?

Shibley
Mr. ~~Shibley~~: Yes.

~~Shibley~~: I presume you are referring to a statement of claim.

Mr. Smith: To be very honest with you I think the claim was issued the day I had the interview with Mr. McAuliffe.

I am not sure of that, Gordon, but I looked up on my date pad yesterday and I had a meeting with Jack Stephens that morning. I had to go to the dentist and go to see Jack Stephens and take him the claim.

That was the same day that Mr. McAuliffe was coming up. ~~Shibley~~ I'm almost sure that's the same day I presented the claim.

Mr. Shibley: Mr. Smith, the reason I raised the matter of the claim is that if a close friend such as John Cronin had said to you to keep your mouth shut, as reported

Mr. Smith: Yes.

Mr. Shibley: and what with a claim for \$400,000 being outstanding, I take it you would not have given this interview if you had received any such caution.

Mr. Smith: I talked to Mr. Cronyn back in December. We had no claim in December. I talked to him back then That was when I talked to Cronyn.

Mr. Shibley: Oh, you had no claim at that time?

Mr. Smith: We had written the hospital and told them we would be presenting a claim, and the first the hospital saw of the claim was the same day, I believe, that -- no, I presented it to the architect about three days in advance and he told me I should present it to the owners myself, so I think that was the day that I met Mr. McAuliffe.

Mr. Shibley: Were you ~~on~~ concerned about the claim at the time you were interviewed by Mr. McAuliffe?

Mr. Smith: No.

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Mr. Shibley: Did you mention it to him?

Mr. Smith: I don't recall but I - I don't know.
I don't know - just a minute. No, I don't recall
mentioning it at all. It never even occurred to me.

Mr. Shibley: Who was present at the time of
the interview?

Mr. Smith: With Mr. ~~McAuliffe~~ ^{McAuliffe?} Mr. ~~McAuliffe~~ ^{McAuliffe}
met my secretary and David Grant because I was out with
Mr. Stephens, and he talked to them for a while and ~~then~~ then
I talked to him for approximately 20 minutes, I believe.

I talked to him for about 20 minutes and then I
had to fly to Toronto and I gave him a ride down in our plane
to Toronto so but I didn't ...

Mr. Shibley: I was about to ask you whether
there was some other person present throughout the interview
with Mr. McAuliffe.

Mr. Smith: My secretary was present. So was
David Grant.

Mr. Shibley: I see.

Mr. Smith: They both were present.

Mr. Shibley: Throughout the interview?

Mr. Smith: Yes.

Mr. Shibley: And how about the return trip?

Mr. Smith: No, just me.

Mr. Shibley: I see. Now then, you ^{have} cancelled out
any such threat ~~to you~~

H-633 to follow

MR. Smith: ~~That~~ That could be checked out.
 I believe that the Globe and Mail, ^{or} Mr. Manthorne was writing
 a ~~series~~ of articles at that time.

MR. Shibley: Well, Mr. Smith, I just want to return
 to the statement in this article: "I was told to keep my
~~my~~ mouth shut or I would never get another government job."
 And I think it is significant that it's put in quotations
 by Mr. ~~McAuliffe~~ McAuliffe.

MR. Smith: Yes.

MR. Shibley: Now, I take it for that reason that
 he represents to the public that he has taken you ~~down~~ ^{down} verbatim
 as having ~~made~~ made that statement to him.

MR. Smith: Yes. I didn't say that.

MR. Shibley: You ~~did~~ ^{did} not say that?

MR. Smith: I ~~did~~ not say that.

MR. Shibley: Did you say anything that ~~represented~~
 approximated the meaning of that quoted phrase?

MR. Smith: When he came ~~to~~ to my office I said
 "You fellows are causing quite a ~~stir~~ ^{stir}", or "You're stirring
 things up", and he said, "What makes you say that?", and I said,
 "Well, a few weeks ago I got a call from somebody high up and
~~he~~ ^{he} said I'd be receiving a call from ~~you~~ ^{you}." ~~I~~ I told Mr.
 McAuliffe ~~at~~ ^{at} the time I ~~didn't~~ not want my name used and ~~I~~ didn't
 want to get into a scandal because I have to work with ~~the~~
 governments and I would just as soon have it played down. Now,
~~I~~ ^I was not — we are working with the provincial government now,
 come to think of it, but I just didn't want to get into
 trouble with the governments and so I asked him to keep my
 name out of it. I was rather upset that he put it in.

MR. Shibley: Were you at that time involved in a

~~McAuliffe~~

(Tape H-632 - 1 follows)

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(Mr. Shibley)

~~Mr. Shibley: I have a claim pending~~ pending claim of
some \$400,000 respecting a government job?

Mr. Smith: Was I ...?

Mr. Shibley: At that time involved in a claim
of some \$400,000?Mr. Smith: Yes, I think ^{oh, is} it ~~was~~ a little more
than that. I ^{had} forgot that I ~~was~~

Mr. Shibley: I'm sorry if my figure isn't precise.

Mr. Smith: Yes, I had ^{ve} a claim in.Mr. Shibley: Yes. What was the ~~claim~~Mr. Smith: I have a claim in — not against the
government —

Mr. Shibley: Yes.

Mr. Smith: — But on a hospital contract.

Mr. Shibley: I'm sorry. It is on a hospital
contract?

Mr. Smith: It's on a hospital contract in London.

Mr. Shibley: I see. And in connection with that
claim, ~~was~~ would the provincial government have any
right of participation as to whether it is allowed or not?Mr. Smith: Well, I would think the money is going
to have to come from them.

Mr. Shibley: Yes.

Mr. Smith: So they must have some say.

Mr. Shibley: And notwithstanding that you had that
pending — do you still have the claim outstanding?

Mr. Smith: Oh, yes.

Mr. Shibley: And notwithstanding that that claim
was outstanding, you were quite prepared to take a position in
terms of the interview you gave Mr. McAuliffe.

Mr. Smith: That's right.

Mr. ~~Walker~~ ^{Walker}: When was the claim issued?

to you from Mr. Cronyn. Did you receive any such threat from anyone, namely, that -----

Mr. Smith: No, I didn't receive any threat at any time and I never thought there would be a threat and I don't anticipate anything; I don't think this kind of thing would happen really.

Mr. Shibley: Now, I would like to then go on with a review of the article.

Mr. Walker: Mr. Chairman, ^{as we} ~~we~~ explored ~~the~~ ~~interview~~ the telephone conversations quite assiduously between Mr. Manthorpe and this gentleman insofar as what the witness told Mr. Manthorpe and similarly what the witness told Mr. McAuliffe. Might ~~we~~ ^{we} be made privy to what Mr. McAuliffe told Mr. Smith in those conversations by way of any interesting facts and what Mr. Manthorpe told Mr. Smith. As you will recall, Mr. Smith indicated earlier that Mr. Manthorpe relayed a number of facts to him. Might we have the benefit of those?

Mr. Shibley: I did ask Mr. Smith what Manthorpe had said to him and I had ~~asked~~ ^{asked} he had given me the whole of his recollection in that respect but you are quite right, I have not asked Mr. Smith, and I do ~~ask~~ ^{ask} you, what did Mr. McAuliffe say to you in the course of this interview?

Mr. Smith: I think he said that he had talked to quite a number of people and had quite a bit of information.

Mr. Shibley: Did he tell you who he had spoken to?

Mr. Smith: No, he didn't.

Mr. Shibley: And with respect to the information, did he impart that information to you?

Mr. Smith: No, not any more than is in the article here. I believe he told me that Mr. Mann had had the plans for quite a while and he knew quite a few other things, ~~but~~ ^{but} he didn't.

Mr. Shibley: So that the information that he communicated

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M.F.

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(Mr. Shibley)

to you was as set forth in this article, and no other?

Mr. Smith: No other. No other that I recall. I don't recall any other.

Mr. Bullbrook: Before you pass on, I want to ask the witness some questions.

Mr. Chairman: We are going to be here for a little while yet, I think.

Mr. Walker: Mr. Chairman, just before Mr. Bullbrook goes on with that, I don't think that counsel ^{had} ~~has~~ quit finished the area that I was interested in. You will recall that Mr. Manthorpe was alleged to have said to Mr. Smith that he told him a number of facts, but I don't think Mr. Smith has told us the facts that were told.

~~Mr.~~ Mr. Shibley: I did ask him that earlier, but I will ask him it again.

Mr. Walker: Maybe I missed that, but I don't think I did.

Mr. Shibley: Mr. Smith, have you any present recollection of what Mr. Manthorpe had to say to you on the occasion of your telephone communications with him?

Mr. Smith: He inferred that Mr. Moog was a good friend of Mr. Davis's.

Mr. Shibley: He inferred that?

Mr. Smith: Yes.

Mr. Shibley: Was that the first that you were aware of that circumstance?

Mr. Smith: Oh no.

Mr. Shibley: For how long had you been cognizant of that fact?

Mr. Smith: Day one I guess. A little while after we put in our tenders.

Mr. Shibley: You mean back in January, 1972? When you ~~are~~ ^{your} talking about tenders you are talking about ^{for} the Hydro building?

Mr. Smith: Yes.

Mr. Shibley: Had you run up against Mr. Moog in other projects prior to this one?

Mr. Smith: No, I had never met him, never met him till yesterday.

Mr. Shibley: What made you aware in January of 1972 of the friendship between the Premier and Mr. Moog?

Mr. Smith: I was talking to a chap, and ~~yes~~ I was saying I ~~thought~~ thought we had put in a good proposal on the Hydro building and I had high hopes that we might get it, and he said "Don't hold out your ~~hand too far because~~

~~the Hydro building is a very big project and it is not~~

Tape H - 634 follows

(Mr. Smith)

hopes too long, they are celebrating over at Canada Square.

Mr. Shibley: "They are celebrating over at Canada Square", is that what he told you?

Mr. Smith: Well, let's say, "they are very happy over at Canada Square." I don't know if they ~~were~~ celebrating but

Mr. Shibley: ~~When~~ ^{when} did this conversation take place?

Mr. Smith: February, 1972.

Mr. Shibley: Would that be early February?

Mr. Smith: Yes.

Mr. Shibley: And where did it take place?

Mr. Smith: Oh, at dinner.

Mr. Shibley: Pardon?

Mr. Smith: At dinner, at dinner.

Mr. Shibley: It was a private conversation?

Mr. Smith: Yes.

Mr. Shibley: Who was present?

Mr. Smith: ~~Oh~~, Boris Zerafa and Bob Tamblin.

Mr. Shibley: Boris Zerafa and Bob Tamblin and

~~yourself?~~

Mr. Smith: ~~Right.~~ ^{Right.} And our wives. We were just out for dinner.

Mr. Shibley: And your wives?

Mr. Smith: Right.

~~Another member of the committee?~~

Mr. Shibley: I see. And who made that observation to you?

Mr. Bullbrook: I take it Mr. Brooks wasn't there?

Mr. Smith: ~~Wait~~, Mr. Tamblin.

Mr. Shibley: Pardon?

Mr. Smith: Mr. Tambllyn.

Mr. Shibley: Mr. TAMbllyn said that?

Mr. Smith: Right.

Mr. Shibley: Did he expand upon the observation?

MR. Smith: No.

Mr. Shibley: Did you respond to it?

Mr. Smith: I just about died!

I didn't have a very happy evening! Spoiled the dinner!

Mr. Shibley: It was dinner on you?

Mr. Smith: NO, it was on Mr. Tambllyn; it was out at

his house.

Mr. Shibley: Oh, it was at his home?

Mr. Smith: Yes.

Mr. Shibley: And of course you took ~~that~~ it as being fairly responsible information, having regard for its source?

Mr. Smith: He didn't elaborate on it.

As I say, it kind of spoiled my evening, ~~and I was very disappointed~~

Mr. Shibley: Now, then, he said they were celebrating at Canada Square and you gave that evidence ~~in response to a question I was putting to you as to when and how you first became aware of the relationship.~~ Was it also part of that discussion that the Premier and Mr. Hoog were ~~also~~

Mr. ~~Smith~~ Smith: Well, Mr. Tambllyn didn't mention Mr. Moog's relationship with the Premier at that time. He just mentioned that Mr. Moog had the -- that Mr. Moog, he thought, had the contract. He didn't say he was a friend of Mr. DAVIS'. And I was not aware of that at the time.

Mr. G. Hodgson: Mr. Chairman, I wonder if exhibit 59 is relevant at this point? It's a letter from Mr. Smith to Mr. Gordon.

Mr. Shibley: Thank you, Mr. Hodgson, would you give the witness a copy of the letter?

Mr. Hodgson has suggested that you be referred to

your letter of February 17, 1972, to Mr. Gordon.

Mr. Smith: Yes.

Mr. Shibley: ~~Yes~~ In this letter you ultimately express the desire, ~~to~~ say -- I'll use your own words: "I would appreciate the opportunity of meeting you some time at your convenience." I gather, Mr. Smith, what you wanted was a ~~follow-up~~ ^{follow-up} discussion with representatives of Hydro. Is that correct?

Mr. Smith: I wondered if there was ~~any~~ any truth to what Mr. Tamblin had said, ..

Mr. Shibley: Yes.

Mr. Smith: .. ^{or} And whether Canada Square really had the job ~~we~~ were working on it or not, ~~and~~ I wanted to find out whether we could drop it, so I wanted to see ~~what~~ ^{what} I could go a little higher than Mr. Candy and find out what the score was.

Mr. Shibley: So that, in fact, this communication was prompted by the communications ~~to you~~ ^{to you} over dinner by Mr. Tamblin?

Mr. Smith: That's right, ~~that~~.

Mr. Shibley: And you got the answer, ~~which~~ which was exhibit 60 ^b ~~to~~ ^A.

Mr. Smith: Is that the answer?

Mr. Shibley: Yes, ~~that~~ Exhibit 60, which was directed to Mr. Bayley.

Mr. Smith: That's right.

Mr. Shibley: ~~by~~ saying ~~that~~ ^{he} didn't think there was any advantage in a meeting.

Mr. Smith: That's right.

Mr. Shibley: Did you put any interpretation ~~on~~ on that response at the time in light of your earlier information from Mr. Tamblin?

Mr. Smith: ~~No~~ ^{No} It looked like kind of a general sort of letter to me.

~~Mr. Shibley: Did you think you were getting the~~
~~brief~~ ~~letter?~~ (Tape H-635-1 follows)

Mr. Shibley:

Did you think you were getting the message
when you got that letter?

Mr. Smith: Yes, it was a pretty well crash-off
type of letter.

Mr. Shibley: I still want to get back to the
matter of when you first were made aware of the friendship
between the Premier and Mr. Davis which led us into this
discussion that you had over dinner with Mr. Thompson.

Are you telling the committee that it was not at that dinner
meeting that the subject of the relationship between the Premier
and Mr. Moog was raised.

Mr. Smith: No, it was definitely not mentioned at
that time; I did not know it at that time.

Mr. Shibley: When did you first become aware of the
friendship?

Mr. Smith: I am just trying to think, really.
I am not sure. I am just not sure.

Mr. Shibley: Could you give us a best
estimate?

Mr. Smith: Well, it is kind of hazy, and so I

Mr. Shibley: Did you know it at the time you wrote
the letter to Mr. Gordon on the 17th February?

Mr. Smith: No, I think it must have been around May,
it seems to come through to me.

I am just trying to think ~~back~~ I didn't realize that
Mr. Davis was a friend of Mr. Moog until long after, ~~but~~ I would
~~think~~ think it might have been May, to the best of my recollection.
But then I seem to have heard it from people. I didn't realize
it at any time up to the time we considered, or anything like that.

Mr. Shibley: So when Mr. Thompson told you in early
February that they were collaborating at Canada Square, what
interpretation did you put on that information relative to the
competitive nature of the Hydro effort?

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Mr. Smith: I didn't realize at the time that we considered that Canada Square had any inside information, and I didn't -- I am not sure that I knew that Canada Square was trading.

Mr. Shibley: I am reminded by the Chairman that earlier you ~~we~~ said that you had known of the relationship since Day One. What is Day One in your calendar?

Mrs. Smith: I am sorry, that is a mistake on my part, Mr. MacBeth. I know that Canada Square were in the running from Day One; and I mean Day One to be the day at Tamlyn's ~~house~~ house which was February 7, which was about 12 days after we put in our tender. ~~So~~ I will correct that. I did not know ^{of} the friendship at that time. I meant the contract was lost, I think.

Mr. Shibley: All right, Mr. Smith, you had earlier said that you thought that the submissions made on January 24 were preliminary, and now you are at a dinner meeting in early February, days later, and told by Mr. Tamlyn, who should know what he is talking about, that Canada Square have the contract.

Mr. Smith: Yes.

Mr. Shibley: Did it not excite ^{some} interest, concern or exasperation on your part that you were receiving word of a decision respecting the selection of the developer at that time and in those circumstances?

Mr. Smith: Well, as I say, it kind of spoiled the whole evening.

Mr. Shibley: I am sure it did, but I want to know whether any other thoughts crossed ^{any} your mind.

Mr. Smith: Well, what the heck do you do? You called Mr. Caniz, and they say, no decision, and then you write Mr. Gordon. I don't know ^{what} ~~what~~ you can do.

Mr. Shibley: That was the next thing I was going to ask you about. You mentioned repeated communications with

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Mr. Shibley)

persons within Hydro subsequent to February, or February
and following. Did they continue to tell you, thereafter, the
silver was still an open question?

Mr. Smith: That's right. I met Mr. Gordon in Hawaii.

Mr. Shibley: Yes, when?

~~Mr. Smith: I met him about the latter. I found
out he was in Hawaii and I was on my way~~

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(Tape H ~~637~~ follows)

~~Mr. Smith: I met Mr. Gordon in Hawaii.~~

~~Mr. Smith: Just right after that?~~

Mr. Smith: Just right after ^{the letter?} ~~that~~ I found out he was in Hawaii and I was on my way, so he and I had a ...

Mr. Shibley: Not because he was there?

Mr. Smith: No, but I would have gone if I thought it would do any good!

Mr. Chairman: No holds barred for you.

Mr. Shibley: You appreciate, Mr. Smith, that notwithstanding ^{that} all these members had a 4 a.m. session last night that you are keeping them all awake this afternoon!

Mr. Smith: ^{4/2} ~~the~~ night as well enjoy it anyway.

Mr. Shibley: You said that you met him in Hawaii, when was that?

Mr. Smith: I don't know. I think it was about 25th February.

Mr. Shibley: And did you discuss with him the circumstance of your ...

Mr. Smith: Yes, I went down and had a cup of coffee with him at his hotel, and we talked for about 10 or 15 minutes. I asked him if there was anything on Hydro, and he said, no decision yet. They would keep us posted. That was all there was.

Mr. Shibley: He said there was no decision?

Mr. Smith: That's right.

Mr. Shibley: But you would be kept posted?

Mr. Smith: That's right. Nothing yet.

Mr. Shibley: Did he give you any indication that there would be a follow up with you in respect of further data and a more precise specification?

Mr. Smith: No. I think that really he just said there was nothing yet, no decision, and it was a long way away. I came back sort of ~~stupid~~ thinking that there would probably be a follow up at a later date.

June 20, 1973
4.45-4.50 pm
V.H.

Mr. Shibley: *As late as* April you submitted in writing

to demand that interest rates had gone up and that this would affect your rental.

Mr. Smith: That's right.

Mr. Shibley: So as late as April, you would still thinking

Mr. Smith: That's right.

Mr. Shibley: ... the thing was yet to be decided.

Is that correct?

Mr. Smith: That's right.

Mr. Shibley: And this article is written as at April 30 to the same effect as though the matter was an open question in your mind - I am sorry, not the article. When you wrote the letter to Mr. Seguin on August 21 ...

Mr. Smith: Yeh. Yeh.

Mr. Shibley: ... you wrote that letter in terms as though the matter was still open as to who should get the job.

Mr. Smith: That was merely one of hope, Mr. Shibley. Mr. Gathercole had told me it was - no announcement had been made and it was a pretty well a foregone conclusion that Mr. Moog would get it.

Mr. Shibley: When was that?

Mr. Smith: July 17 I believe. I got the date ...

Mr. Shibley: Did you have any conversation with Mr. Gathercole as to the reason why your proposal was not preferred to that of Canada Square?

Mr. Smith: I might have. I think he said that they had previous good relationships with Mr. Moog, or the government had and that he built good buildings.

Mr. Shibley: Did ~~he~~ *Le* refer in particular to the OISE building?

Mr. Smith: I believe so. Very short meeting.

June 20
45-456
V.H.

Mr. Shibley: Was there any mention made in that conversation that the relationship or friendship between Mr. Moog and ~~Mr.~~ Premier Davis?

Mr. Smith: No.

Mr. Shibley: Was there at any time any such conversation or comments or written communication, that was either to you or that you have had opportunity to observe, which reflected that the thinking of anyone within Hydro was influenced by the circumstance of the friendship between the Premier and Mr. Moog? Anything at all?

Mr. Smith: I think Mr. Manthorpe and I talked about it.

Mr. Shibley: Mr. Manthorpe mentioned to you that Mr. Moog and the Premier were friends?

Mr. Smith: I think he did. *I think we discussed that*

Mr. Shibley: Mr. Smith, that was in November of 1972, is that correct?

Mr. Smith: That's right.

Mr. Shibley: He mentioned it to you? In what context?

Mr. Smith: Oh, I think he was discussing the OISE building...

Mr. Shibley: Yes?

Mr. Smith: I think he stated that they were good ~~and~~ friends.

Mr. Shibley: Is this one of the facts that Mr. Walker was asking you to re-tell?

Mr. Smith: Yes.

Mr. Shibley: ~~Is this one of the facts that Mr. Walker was asking you to re-tell?~~

H-639 follows

Mr. Smith: Yes.

Mr. Shibley: What other facts did Mr. Manthorne tell

at that time?

Mr. Smith: I think that's about it, I think he inferred that Mr. Moog got his contracts because of ~~the~~ he said he was a good friend and he thought he had an inside track.

Mr. Shibley: Otherwise than from some member of the press, have you any reason whatsoever to believe that the relationship between the Premier and Mr. Moog as friends had anything to do with the letting of this contract ~~at~~ to Canada Square?

Mr. Smith: I don't recall, I think it has mostly come from what I have read in the press and seen in the House. I certainly have had no correspondence or no phone calls or -

Mr. Shibley: You never overheard anything among members of Hydro?

Mr. Smith: No, definitely not.

Mr. Shibley: Have you ever heard any comment ~~in~~ made by such people as the personnel of Tamblin and Mitchell?

Mr. Smith: No.

Mr. Shibley: Or Webb Zerafa?

Mr. Smith: No.

Mr. Shibley: ~~Well~~ Unless members of the committee want to carry forward, I'd like to continue with the review of this article.

Mr. Bullbrook: Well, I want ~~to~~ as this stage, since you have now finished your examination as to some of the content in the article, I want ~~to~~, if you will permit me, ~~to~~ examine the witness, and I recognize that in examining him, as I will, I do impinge upon what you intend to do in the future slightly. And if you would bear with me there, I won't be too long.

June 20, 1973
4.50 to 4.55
M.T.

H-637-2

(Mr. Bullbrook)

In connection with your response to counsel before, Mr. Smith, I just want to go over the article for a moment with you. First of all, did you read this article after it was published?

Mr. Smith: Yes, I did, I read it many times. I was in Rome when I read it.

Mr. Bullbrook: Good. Could you tell us the first occasion that you had to read it?

Mr. Smith: The first occasion I arrived in Rome and it was waiting for me in the mail.

Mr. Bullbrook: Who sent it to you, sir?

Mr. Smith: My secretary.

Mr. Bullbrook: Do you know the date of publication of this article?

Mr. Smith: I think it's the 19th or 18th of April.

Mr. Shibley: It's the 30th, April 30th.

Mr. Genest: 30th.

Mr. Smith: Wait a minute, then I am ~~not~~ okay.

Mr. Bullbrook: How long were you away from your office at that particular time.

Mr. Smith: I was thinking I left on the 18th but maybe I ~~was~~ left on the 28th.

Mr. Bullbrook: When did you return to ~~me~~

Mr. ~~Genest~~: 28th ...

Mr. Smith: I'm sorry, it's the 28th I left and I believe it was the day after I ~~was~~ left.

Mr. Bullbrook: When did you return after that particular trip?

Mr. Smith: ~~Monday~~ What did you say, 18th? It was three weeks later, on the Saturday.

Mr. Bullbrook: I just want to, shortly, if I can, go over this article with you, as Mr. Shibley has. It begins:

Bullbrook)

the developer who got the contract to build Ontario Hydro's head office building on Toronto's University Avenue had a nine-month gap on his competitors in preparing the plans."

Anything wrong in that particular statement that you know

Mr. Smith: No, not ~~by~~ that I know of. I didn't make it.

Mr. Bullbrook: No, I know you said that in evidence that you didn't.

Mr. Smith: All right. All right.

Mr. Bullbrook: The next paragraph reads,

One of the three unsuccessful developers had only 19 days in which to prepare ~~his~~ ^{its} proposal."

Is there anything wrong with that?

Mr. Smith: No.

Mr. Bullbrook: Let's skip ~~down~~ down, if we may, down to the paragraph, two paragraphs above the insert. It reads as follows: "An investigation into the three-year old affair has revealed .."

Mr. Smith: Yes.

Mr. Bullbrook: Now we'll slip ~~down~~ to the next paragraph beginning:

~~"Canada Square had been the site of the investigation."~~

Page H-639 follows

(Mr. Bullbrook)

~~Mr. Bullbrook: I have some information, including~~
inside
"Canada Square had considerable information, including supporting technical data, months before the competition opened."

Anything wrong with that to your knowledge?

Mr. Walker: What do you mean by "wrong?" I'm sorry to have missed the boat there.

Mr. Bullbrook: Is there any information contained in that statement that is inconsistent with knowledge that you have, or had at that time?

Mr. ~~Walker~~ Smith: No, I agree with that.

Mr. Bullbrook: "Hydro paid architects \$1,485,000 to plan a building that Hydro would construct itself. Hydro decided the capital outlay was too high and the ~~plans~~ plans were dropped. The architects who ~~was~~ worked on them were retained as consultants to Canada Square."

Did you have any knowledge of that at all?

Mr. Smith: Did I? I knew the plans were dropped and I heard that the architects were retained by Canada Square. I suggested retaining them in our proposal.

Mr. Bullbrook: All right. He continues: "Hydro officials did not provide Canada Square's three competitors anything in writing on which ~~they~~ based their proposals."

Mr. Shibley: Mr. Bullbrook, I'm sorry to interrupt here. I thought you were going to ask on ~~Canada~~ up to the point I had covered. You've already passed by one item that I haven't covered and I had intended to ask him some further questions on. May I suggest that it would be preferable to permit me to completely review the article and then go over these other items with the witness to the extent that you don't feel the examination is complete?

Mr. Bullbrook: That's why I said I was going to impinge slightly.

Mr. ~~Walker~~ Shibley: Oh, all right.

Mr. Bullbrook: Well, well, I'll ~~start~~ start it by saying this,

(Mr. Bullbrook)

isn't it a fact that within your knowledge, the only ~~assertion~~ assertion that's contained in this article with which ~~a~~ you disagree is the ~~assertion~~ assertion agreed, and that Mr. Shibley has gone over, ~~the~~ ¹ A senior executive of one of the three unsuccessful firms that bid on the project said that he was called ~~several~~ several weeks ago by a source close to the Ontario cabinet and high in the Progressive Conservative Party, and told the Globe and Mail ~~he~~ was investigating. ~~the~~

"I was told to keep my mouth shut or I would never get another government job³. The company official said, he insisted he not be identified."

Now, am I unfair from your reading of this, that substantially, having regard to your knowledge at that time, that's the only thing in the article with which you disagree?

Mr. Smith: That's right.

Mr. Bullbrook: ~~Yes~~ Right. Did you possibly think that that might have referred to you as ~~a~~ ^a senior executive of one of the three unsuccessful firms?

Mr. Smith: I'm sure it did.

Mr. Bullbrook: Did it cause you any concern to see in an article based on an interview made by a reporter ~~that~~ - a reporter for ^{that} highly esteemed newspaper - it contained, not only a paragraph but a sub-headline, not substantiated in fact by the interview that you'd given?

Mr. Smith: When I was in Rome my secretary wrote me a note and said that she'd called Mr. McAuliffe and she was quite upset about it and that he ~~hadn't~~ ^{hadn't} returned her call. The reason I did not call Mr. McAuliffe and complain ~~when~~ when I got back was that I was afraid I knew the hearing was coming up and I was afraid I might get misquoted, or have a misinterpretation put on something I might say. I think I might add to that that people have known me in the business, or in London, would say that anybody would be crazy to tell me to be quiet and not say what - I don't think that anybody would tell me -

Mr. Bullbrook: You come through to me as a very vigorous and forthright individual.

Mr. Smith: Yes, but I don't think anybody is going to tell me keep my mouth shut.

Mr. Bullbrook: I'm inclined to agree with that. What causes me concern, and it's quite obvious, that the only thing with which you disagree in this article is the statement of pivotal importance in connection with this inquiry.

Mr. Smith: That's right.

Mr. Bullbrook: You say your secretary did communicate with Mr. McAuliffe?

Mr. Smith: I said she tried to get him but she couldn't.

Mr. Bullbrook: She tried to get him?

Mr. Smith: Yes.

Mr. Bullbrook: Do I take it from that that either your secretary was privy to the original interview or that you mentioned this error to your secretary and instructed her

(Tape H-639 follows)

June 20/73
5:00-5:05 pm
PLG

(Mr. Bullbrook)

~~Secretary was privy to the original interview of the witness~~
~~mentioned this error to your secretary and instructed her to~~
~~communicate with Mr. McAuliffe.~~

Mr. ~~James~~ Smith: Oh no, she was in on the original interview.

Mr. Bullbrook: ^{She} ~~Mr~~ was in on the ~~the~~ original interview?

Mr. ~~James~~ Smith: Yes, with Mr. Grant.

Mr. Bullbrook: So ~~she~~ ^{she} would have been aware also?

Mr. ~~James~~ Smith: Yes, she would have been aware.

Mr. Bullbrook: So that your secretary would be available
to this committee to corroborate what you have told us today?

Mr. ~~James~~ Smith: That is right. So would Mr. Grant.

Mr. Bullbrook: Those are all the questions I want to ask.

Mr. Chairman: Gentlemen, may I just follow up ^{Mr. Bullbrook} ~~because of the way he put these questions~~
~~proposals which were related to these sections~~ originally?

You asked the witness if he knew they were wrong. I would
just like to ask those same questions; Did you know they were
right?

Mr. ~~James~~ Smith: Did I know which questions, Mr. Chairman?

Mr. Chairman: Well, the questions that Mr. Bullbrook asked
you, among them was the question, "Canada Square had considerable
inside information, including supporting technical data, months before
the competition opened."

Mr. ~~James~~ Smith: No I didn't know they were right.

Mr. Chairman: So you didn't know it was wrong but you ^{didn't} ~~didn't~~
necessarily know ~~it~~ it was right either

Mr. ~~James~~ Smith: No I didn't know it was right.

Mr. ~~Shirley~~ Benwick: Thank you, Mr. Chairman, I just have
three questions and I would specifically like Mr. Shibley to stop
me if he considers that any one of them is not relevant. They are
not inter-connected but I think ^{they} will be clear. On Exhibit number
171, I noticed that all of the contributions as I see it, from the
sheets, indicates ~~the~~ either the payee or the purpose of the
contribution, except the contribution in September 1971 to the
provincial Conservative Party of \$35,500, I would ask if Mr. Shibley

June 20/73
5:00-5:05 pm
PLG

(Mr. Renwick)

believes it is relevant. No, I will ask and leave it to Mr. Shibley to interrupt me. Could you tell us who the payee was of that donation of \$5,500, or the representative of the Conservative Party who came around to collect it?

Mr. Smith: I think I was one of the representatives.

Mr. Renwick: You were one of the fund raisers for the Conservative party?

Mr. Smith: Yes.

Mr. Renwick: ~~And that would be the contribution~~ Is it a lump sum contribution, \$5,500?

Mr. Smith: Yes.

Mr. Renwick: And who was it made payable to or delivered to, presumably by cheque?

Mr. Smith: I am not just sure. It was either Albert Shepard or Colin Brown.

Mr. Renwick: Either Albert Shepard or Colin Brown?

Mr. Smith: I believe so, yes.

Mr. Renwick: And it was a solicitation of funds for the subsequent October election campaign?

Mr. Smith: That is right.

Mr. Renwick: The second question I would like to ask you is: I take it, and I just wish confirmation, ^{regarding} ~~the~~ the conversation between you and Mr. Cronyn, which took place either a few weeks before or two or three months before, ^{that} ~~there~~ there was no one a party to that conversation, except yourself and Mr. Cronyn?

Mr. Smith: No, it was just a phone call around supper time at home.

Mr. Renwick: You were at home and you assumed he was at home?

Mr. Smith: I am not sure. He said he was at home because I asked him about ^{it} subsequently and he said he was at home.

Mr. Renwick: Right, and did Mr. Cronyn in the course of that conversation say how he had come to have knowledge of the ~~fact~~ fact that the Globe and Mail would be calling you?

Mr. ~~Smith~~ Smith: He didn't say the Globe and Mail would calling me and the Globe and Mail did not call me at that time. They did not call me for four months after Mr. Cronyn's conversation. It was four months after he phoned me that the Globe and Mail called me.

Mr. Renwick: I understand that, but I had thought ~~that~~ I correct?

Mr. Shibley: No you are correct, Mr. Renwick.

Mr. Renwick: I had thought that you had said that Mr. Cronyn had indicated that you ~~could~~ ^{should} expect a call from the Globe and Mail.

Mr. ~~Smith~~ Smith: No, he said I might expect a telephone call.

Mr. Renwick: From the Globe and Mail?

Mr. ~~Smith~~ Smith: Yes.

Mr. Renwick: Did he tell you the source of ~~that~~ his knowledge of that information that you might expect a call?

Mr. ~~Smith~~ Smith: No.

Mr. Renwick: And you never inquired from him as to how he knew?

Mr. ~~Smith~~ Smith: No, I just assumed it was common knowledge or something.

Mr. Renwick: Now, may I come to this question of the quotation in the Globe and Mail story of April 30:

"I was told to keep my mouth shut or I would never get

~~another~~ government job"

Now you stated quite clearly that you did not use those words, or words from which an inference ~~could be drawn that anybody~~

Tape H 640 follows

H - 340 - 1

~~_____~~
~~_____~~
could be drawn that anybody had conveyed any such an intimation to you. Is that correct?

Mr. Smith: I don't think anybody could get that from anything because I have never been threatened and that was never said to me.

Mr. Renwick: But it is quite clear that the person to whom you were referring in the preceding part of that paragraph was Mr. Cronyn, and the call to which I have alluded a few minutes ago?

Mr. Smith: Yes, that was definitely Mr. Cronyn.

Mr. Renwick: All right. Now in the context of a neighbour, a friend - and I think you used the words a close friend - and a director of your company -----

Mr. Smith: Yes.

Mr. Renwick: Was Mr. Cronyn in fact conveying to you that if you were not careful in what you said, if and when the Globe and Mail called you, that it might very well adversely affect your business?

Mr. Smith: No. He didn't say anything about - he said I just wanted to ^{call} ~~call~~ you and tell you, he didn't say anything about government business or anything like that. I think he just called me to tell me, make me aware, what they would be calling.

Mr. Renwick: That would be an interesting piece of information but surely there would be some purpose in a person who was a director of your company calling you in the capacity of a close friend and neighbour to let you know that the Globe and Mail would be calling you about this matter?

Mr. Smith: I think as a director in a company that would be almost his responsibility if he knew it to let me know they would be calling.

↓

Mr. Renwick: Just to simply let you know. He
didn't indicate to you the way in which, or the manner in
which, you should respond to any such call if the call came
through to you from the Globe and Mail?

Mr. Smith: No, he just said he wanted to let me
know and he certainly didn't warn me.

Mr. Renwick: Was there an intimation of caution,
knowing as he would know and as we have got to know this
afternoon, as Mr. Bulbrooke said, your very forthright nature?

Mr. Smith: Yes, there could have been an intimation
of caution.

Mr. Renwick: An intimation of caution?

Mr. Smith: Yes. But I think that is an intimation
of caution that you get when you talk to the press at any time
and I would take it as being that.

Mr. Renwick: And one other piece -----

Mr. Chairman : Advice ^{which} is not always followed ^{evidently}

Mr. Renwick: And one other piece of miscellaneous
information or confirmation, when Mr. Snabley referred to the
claim about \$400,000 you indicated that it was higher and I got
the intimation it was substantially higher than that

Mr. Smith: Yes. Well it includes all sub-
contractors, it is not just Ellis-Don. The Ellis-Don part is
quite small, not quite small but -----


Mr. Renwick: But it is part of a substantial claim
which would be what? Roughly?

Mr. Smith: The claim would be in excess of \$900,000,
just under one million.

Mr. Renwick: Just under a million dollars altogether,
but you are a participant.

Mr. Smith: Altogether. All sub-contractors, yes

Mr. Renwick: I see. Well, Mr. Chairman, we have
certainly broken in to the London first name collection of
supporters of the Tory party this afternoon.



Mr. Chairman: It is something for the NDP to break into things like this.

Mr. Renwick: Mr. Chairman, I have ^{no} further questions at the moment.

Mr. Chairman: Mr. Newman?

Mr. W. Newman: Mr. Chairman?

Is it true, Mr. Smith, you also collect for the federal Liberal Party?

Mr. Smith: Yes, I did in the last federal election, yes. That is quite true.

Mr. Chairman: It sounds like equal time, Mr. Renwick.

Mr. Renwick: In line with my colleague's comments we may be approaching Mr. Smith for a little fund raising.

Mr. W. Newman: I would like to ask Mr. Smith one more question. Have you ever thought of calling the Globe to ask them to correct the mistake they have made about ~~quoting~~ supposedly the statement herein quotes?

Mr. Smith: No, Mr. Newman, I was away. It came out the day I went away and when I ^{it was} came back ~~three~~ weeks later and I thought since the hearings were coming up it might be advisable not to say anything. That was my own decision.

Mr. Chairman: Mr. Allen?

Tape H - 641 follows

Mr. Smith: ~~not to say anything~~ That was

~~the decision~~

Mr. Chairman: Mr. Allan

Mr. Allan: No.

Mr. R. G. Hodgson: Mr. Chairman, I wonder if

could ask the ~~witness~~ witness would he consider himself as
friend of Mr. Davis?

Mr. Smith: No, I am not a personal friend of

Mr. Davis. I have only met him once or twice.

Mr. Chairman: Mr. Shibley, I think we are back

you.

Mr. Shibley: I want to return to the article
with you, Mr. Smith, and dealing with the paragraph: "Hydro
aid architects \$1,485,000 to plan a building. Hydro decided
the capital outlay was too high and the plans were dropped.
architects who worked on them were retained as consultants
to Canada Square." In that connection, Mr. Smith, you have
already made reference to the fact that you were asked to
quote a - I am sorry, you discussed this building in July of
1971 with Mr. Candy, I believe.

Mr. Smith: Yes.

Mr. Shibley: And in respect of the decision
to abandon those plans, when were you first apprised of that
fact?

Mr. Smith: I believe it was January, 1972.

Mr. Shibley: That's the point. The first time
you knew that they were no longer talking of the self same
building as you had been discussing in July of 1971 was when
you were asked to make a proposal on January 10, 1972, is
that correct?

Mr. Smith: Yes, I think so

Mr. Shibley: All right. Then the article

on: "one company official claims he was told by a senior
executive that his company would be permitted to bid on the
but don't work too hard at it." Is that your ~~message~~ com-

(Mr. Shibley)

~~xxxxxxx~~ to Mr. McAuliffe? Did you tell him that?

Mr. Smith: Yes.

Mr. Shibley: Not some other company?

Mr. Smith: No.

Mr. Shibley: And having told him that in the context of this general interview, did you mean to convey to him that this was an additional circumstance tending to confirm your ~~own~~ suspicions?

Mr. Smith: Yes.

Mr. Shibley: Is that right?

Mr. Smith: Yes.

Mr. Shibley: So your view as....

Mr. Smith: I was suspicious the first day and that's why ~~xxxxx~~ Mr. Bayley and I went back to see Mr. ~~xxxxx~~ Candy.

Mr. Shibley: So when you told me earlier that when this was first said to you by Mr. Candy, you interpreted as meaning that this was a preliminary type effort, your thoughts in that respect had changed by the time you gave Mr. McAuliffe this interview. You placed a different interpretation on the same words.

Mr. Smith: But naturally the decision had been made.

Mr. Shibley: Yes, -but you were interpreting it differently by this time, is that correct?

Mr. Smith: I am not sure I understand you.

Mr. Shibley: What I want to know is by April 30, 1972, when you reflected back on what Mr. Candy had told you "not to work too hard at it," were you then of the view that he meant something different than merely that this was a preliminary ~~xxx~~ effort?

Mr. Smith: Well, I thought it might have been a preliminary effort. Then we asked whether we would get a fair shake and then....

Mr. Shibley: What I am driving at, Mr. Smith, is when you reflected upon what Mr. Candy had said to you in January

Shibley/

er on in April...

An Hon. Member: Of what year?

Mr. Grant: A year later.

Mr. King: 1973.

Mr. Shibley: Oh, I am sorry, April, 1973,

s. When you reflected back on what you had been told by
Candy in January of 1972, not to ~~me~~-work too hard, were
you now putting a different interpretation on those words?

Mr. Smith: Oh, no, it was the same interpretation

I put on originally.

Mr. Shibley: Well why would you communicate that
conversation then to Mr. McAuliffe in the context of a
discussion as to whether or not you had had a fair shake?

~~Mr. Smith: Well, I thought it was odd. I
was just telling the situation under which Mr. McAuliffe
thought it was odd that Mr. Candy would say that at...~~

(H-642 to follow)

(Mr. Shibley)

~~as to whether or not it was a fair shake.~~

Mr. Smith: Well I thought it was odd. I was just telling the situation under which we tendered and I thought it was odd that Mr. ^{Candy} ~~Smith~~ would say that at that time.

Mr. Shibley: What was odd about it?

Mr. Smith: Well that somebody ^{asks you to} ~~put~~ put a bid in on a \$40 million job and says, "don't work too hard on it."

Mr. Shibley: Did you consider that that was ^{1/2 of} corroborated ~~by~~ the fact that it was not intended that you have a fair shake.

Mr. Smith: It was intended that we don't get a fair shake, you say?

Mr. Shibley: When you thought about it later on, in April of 1973, and you reflected back on it and you made a point of telling Mr. McAuliffe about it, ^{was} the reason that you told him about it, the fact that it was a corroborative circumstance. Is that so?

Mr. Smith: Yes.

Mr. Shibley: One more piece of evidence, in your thinking that it wasn't intended from the outset to give you fair run at this job.

Mr. Smith: That's right.

Mr. ~~Shibley~~ Shibley: Then the article goes on, "Hydro did not publicly announce that it was seeking proposals from private developers, officials of two unsuccessful companies, ^{but} ~~but~~ that they learned through rumour that Hydro was going the developer route." ~~Well, you say~~

Were you one of the two companies in that category?

Mr. Smith: I am sorry? ~~I was~~

Mr. Shibley: It ~~also~~ mentions the fact that two companies only learned through rumour that Hydro was going ^{the} ~~the~~ development route. Were you one of the two companies?

Mr Smith)

Mr. Smith: No, I don't think we were. I think we learned by visiting Mr. ~~McAuliffe's~~ ^{Smith's} office, ~~and~~ we can take it by deduction that the two companies referred to here are Yolles & Rotenberg and Horizon. ^[Mr. Smith: Yes] I would say so, yes.

Mr. Smoley: Then ~~the~~ skipping to the column over, this latter part of that, at the ~~bottom~~ ^{top} bottom. ~~He~~ ^{She} starts out, "Ellis-Don Ltd. officials claim the firm's position has been misrepresented by Mr. Gathercole in his letter to Premier Davis."

Do you see that?

Mr. Smith: Yes.

Mr. Shibley: What did you tell Mr. McAuliffe ~~was~~ ^{were} ~~a~~ ^{misrepresentation} by Mr. Gathercole in his letter to Premier Davis?

Mr. Smith: Well, I believe it is exactly as stated there. Mr. Gathercole stated in his letter to Premier Davis the rates that they had worked out on their pro-rating process or up-dating and really weren't the rates that we had in our proposal and we think that is misrepresentation.

Mr. Shibley: In particular, the rates ~~mentioned~~ mentioned in the letter in terms of Ellis-Don quoted a rate of \$5.38 per square foot. Is that correct?

Mr. Smith: Yes.

Mr. Shibley: And you say that that was not in accord with the information, I am sorry, with the proposal that you had submitted.

Mr. Smith: Certainly, that is not in accordance with what we submitted at all.

Mr. Shibley: You appreciate that that is the figure that was computed on the ~~basis~~ ^{basis} of a \$30 per square foot billing?

Mr. Smith: I have ~~just~~ forgotten what square footage it was, but I ~~realize~~ realize that it is not a figure

(Mr Smith)

that we quoted.

Mr. Shibley: So that if the representation to the Premier and earlier in memoranda prepared by staff of Hydro, for consideration of members of the commission, were quoting your rental rate at \$5.38, you take that to be a misrepresentation of what was intended by your proposal.

Mr. Smith: That's right.

Mr. Shibley: And, in fact, what was set forth in your proposal.

Mr. Smith: That's right.

Mr. Shibley: The only reason you quoted rates at \$28 and \$30 per square foot of construction was because you were asked to do so.

Mr. Smith: That's right.

Mr. Shibley: And they have adopted the "highs" for those figures, in formulating that statement.

Mr. Smith: Yes sir.

Mr. Shibley: And that is the misrepresentation to which you make reference in this article and which you reported to Mr. McAuliffe.

Mr. Smith: That's right.

Mr. Shibley: Anything else?

Mr. Smith: I just have trouble recalling Mr. Gathercole.

trouble recalling it.
that was what we
discussed with you

Chairman, that's the point I
the witness could have Mr.
him?

it in front of him. He has

has it.
you want me to read it?
page 4, Mr. Smith, near the top of

~~Exhibit no. 123~~
~~Exhibit no. 123~~
I'm sorry. It's
Exhibit no. 123

Shibley: Exhibit no. 123 dated April
Smith: I've got that, Mr. Shibley

Shibley: Well, what I think the committee
Mr. Smith, is was that the one

presentation that you claim was made in
Premier?

Smith: Gee, I'd have to read the
I read it once, but I didn't make notes

Shibley: Well, I'd like to scan
You have it in

Are you ready to make an answer?
Mr. Smith: That was the only one
McAuliffe's article. Now there may
disagree with but I'd have to read
now

that
Mr. Smith : That was the only one we referred to
in Mr. McAuliffe's article. Now there may be other things
~~that~~ we disagree with but I'd have to read the letter and let
you know .

Mr. Shibley: All right, I'd like you to do that perhaps overnight and we'll pursue it tomorrow. But I'd like now

Mr. Smith: But that was the rental rates that we referred to that were quoted in Mr. McAuliffe's article.

Mr. Shibley: Yes, that's what was bothering you about that.

Mr. Smith: That was the one thing we referred to.

Mr. Shibley: Then it goes on, "Don Smith, president of Ellis-Don, also said his firm was refused repeated requests to make a formal presentation to Hydro senior management people who would be making the final decision."

Now, were there any ~~other~~ requests other than those evidenced by the exchange of letters in February of 1972?

Mr. Smith: No, no, there were none.

Mr. Shibley: So really there was one letter written by you to Mr. Gordon, I believe, ~~xx~~

Mr. Smith: And I

Mr. Shibley: Is that correct? And you

Mr. Smith: Yes, that is right.

Mr. Shibley: So the reference in the article, to ~~the~~ repeated request is a reference to what?

Mr. Smith: Well, just really to try and find out what was going on, because we didn't think that our proposal was -- we didn't think they could gather enough from the proposal to make a decision.

Mr. Shibley: The point is that you only made one communication with Hydro requesting the opportunity to make a formal submission.

Mr. ~~Smith~~ Smith: That's right.

Mr. Shibley: There was not a repeated circumstance?

Mr. ~~Smith~~ King: ~~That is~~ ^{Are} is your question directed to a request or a communication verbally or in writing?

Mr. Shibley: ~~Yes~~ The statement in the article says ~~that statement~~ "his firm was refused repeated requests to make a formal presentation."

Mr. Smith: We did not make repeated requests to make formal representation. We

Mr. Shibley: No, well, you made the one request.

Mr. Smith: That's right.

Mr. Shibley: You did make repeated efforts to establish contact with them to find out what was going on.

Mr. Smith: That's right.

Mr. Shibley: All right. So that we have got the whole of the picture in that respect.

Mr. Smith: That's right.

Mr. Shibley: Then skipping over to the next column, about half way down the page; "Mr. Smith said he did meet Hydro's chief architect, Mr. Candy, on April 10, but only after considerable difficulty in arranging the meeting. He was not able to make the type of presentation he had hoped, Mr. Smith said." Did you tell Mr. McAuliffe that?

Mr. Smith: I would say I did.

~~Mr. Shibley: When you met with Mr. Candy on April 10...~~

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M.R.

(Mr. Smith)

~~I would say that~~

Mr. Shibley: Now then, in that respect, when you met with Mr. Candy on April 10th, did he tell you that, as of that date, a decision had been taken by the staff to exclude Ellis-Don as a developer for the development of this project?

Mr. Smith: No, I don't think so.
I don't recall.

Mr. Shibley: I remind the members of the committee that April 10 is the date of the memorandum prepared by Mr. Mink and Mr. Candy wherein ~~wherein~~ it was recommended that only Horizon and Canada Square be considered for the project.

So that on the self-same day as that memorandum, Mr. Smith, I take it you had a meeting with Mr. Candy?

Mr. Smith: Yes, I did. It says here I did.

Mr. Shibley: Yes. Well, that accords with his own diary I might tell you ~~and~~ I want to ask you what went on at that meeting?

Mr. Smith: I have trouble recalling ~~that~~ - I'm not sure; I think there ~~be~~ might have been another gentleman. I remember meeting another gentleman with Mr. Candy one day.

Mr. Shibley: Were you led to believe by the content of the conversation that there was still a prospect that Ellis-Don would receive this contract?

Mr. Smith: Well, that ~~was~~ was my opinion because, obviously, I wrote a letter to him on April 11th.

Mr. Shibley: Yes, that's right.

And was the same circumstance true of the meetings that you had with Mr. Candy on May 30th, June 2nd, and the meeting of June 26th between Mr. Stewart of your firm and Mr. Candy?

~~Maximally~~ Throughout the course of that series of meetings, was your firm led to understand that the question of who was to be the developer was still an open question?

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M.R.

(Mr. Shibley)

and your firm was still in contention?

Mr. Smith: Yes, that was my opinion.

Mr. Shibley: Now, then, returning to the article.

"Ellis-Don officials claimed they first learned in July of 1971 that Hydro was planning to have a private developer build its new head office and immediately expressed interest. Contact was maintained and finally, Mr. Smith said, he went to ^{see} Mr. Candy about January 5th or 7th last year and gained permission to submit a proposal."

Mr. Smith: I'm sorry, I'm not sure where you are.

Mr. Shibley: I'm sorry. I'm on the last column of the article; first page of the article, to the right.

Mr. Smith: Okay.

Mr. Shibley: ... about three-quarters of the way down. Do you see that?

Mr. Smith: Yes.

Mr. Shibley: Why did you use the phrase that you "gained permission to submit a proposal"?

It's in the paragraph that starts "Contact was maintained ..."

Mr. Smith: I think that is a standard phrase, Mr. Shibley. When people call proposals or invitations to bid, you generally get permission to ~~submit~~ bid.

Mr. Shibley: I see.

Mr. Smith: Or get ^{an invitation} ~~permission~~ ...

Mr. Shibley: There was nothing unusual in that?

Mr. Smith: No, that is the standard thing.

Mr. Shibley: Then you referenced the fact that Candy told you "Don't work too hard at it" and then the quote, "I asked him what he meant but he didn't answer me". Did you tell McAuliffe that?

Mr. Smith: I imagine I did.

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Mr. Shibley: So, that, even as at the time Mr. Candy made the statement, you did ask him what he meant by it?

Mr. Smith: I would say so.

Mr. Shibley: What did Mr. Candy tell you?

~~Mr. Candy: I'm not sure. I think that that's~~

~~what he said or~~

H-646, see follow
H-645 to follow

5:30-5:35 pm
C.B.

Mr. Smith: I'm not sure I think that that's when I gathered or maybe formulated in my own mind that there might be a later detail call. It was a quick meeting and we had to - I mean I won't say Mr. Candy didn't - the conversation or the meeting might have been ending and I don't think ~~we~~ he denied me any answers.

Mr. Shibley: Then you go on to say, at the very bottom of that column, "we were told not to prepare drawings and specifications" Is that so?

Mr. Smith: Yes, that is so. I think I stated that in my proposals.

Mr. Shibley: Now members of the committee that's all I have to ask on the article if other members have any questions referable to it.

Mr. Chairman: Mr. Smith: You've been in that box for a long time. We'd like to go through until six o'clock. Do you want to recess or ...

Mr. Smith: NO I'd rather go through I'm supposed to be home tonight the one night in two weeks that I...

Mr. Bullbrook: You'll never be home ~~at~~ tonight.

Mr. Smith: My son's graduation., Sir

Mr. Chairman: What, there is a graduation this evening? Today -

Mr. Smith: Yes, but it is not until eight.

Mr. Bullbrook: That is ~~not~~ fine. Let's facilitate the witness, since he is going to have to come back tomorrow,

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C.B.~~(Mr. Bullbrook)~~

facilitate him by letting him go home now.

Mr. Chairman: What time do you need to go?

Mr. Smith: I can go through until six. I've got an airplane waiting for me.

Mr. Bullbrook: Oh that's right. We forget these things, ~~being~~ being neither developers or Cabinet Ministers, but more pedestrian.

Mr. Chairman: All right we will go through for a little while then.

Mr. Shibley: All right. I want to take you back for a moment, Mr. Smith, and ask you about the circumstances following your last communication^s with some member of Hydro~~which~~ which my investigation into this point indicates it was June 26, when Mr. Stewart of your firm had a meeting with Mr. Candy. Was that the last communication pending the announcement as to Canada Square getting the job?

Mr. Smith: Was that the last meeting with Mr. Candy?

Mr. Shibley: Yes.

Mr. Smith: I would think so, I didn't know he had that meeting, but...

Mr. Shibley: YOU didn't know that?

Mr. Smith: NO, he might have told me but I'd forgotten.

Mr. Shibley: And from that date forward to some time I gather in November there was no other form of communication between yourself and anyone on behalf of Hydro.

Mr. Smith: No.

Mr. Shibley: Is that right?

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5:30-5:35 pm

C.B.

Mr. Smith: Well after Mr. Seguin that was my - I met Mr. Cathercole, then I wrote Mr. Seguin.

Mr. Genest ~~Genest~~: I think there might be some confusion over that meeting with Mr. Stewart. I understand that at that time he had parted company or was about to part company with Ellis-Don ^{and I think} he came in on a matter unrelated to the proposal.

Mr. Shibley: Thanks, Mr Genest.

Mr. Chairman: Mr. Renwick, did you want to get in at this point, or just indicating you want to get in.

Mr. Renwick: No I just would like to get in either before....

Mr. Shibley: ~~Mr. Renwick~~ It is convenient, I'm just touching...

Mr. Renwick: Pardon...

Mr. Bullbrook: Go ahead now.

~~Mr. Renwick:~~

Mr. Chairman: All right proceed now then.

Mr. Renwick: I wanted to identify clearly for the record that John Cronyn to whom you referred. I assume that it is the John B. Cronyn who is the -was the head of the government, the committee on government productivity.

Mr. Smith: That's right.

Mr. Renwick:...appointed for the government of Ontario.

Mr. Smith: That's right.

Mr. Renwick: And that in addition to the responsibilities on government productivity they had also added to their responsibilities the functions structure,



5:30-5:35 pm

C.B.

~~_____~~
operation, financing and objectives of Ontario Hydro.

Mr. Smith: That's right.

Mr. Renwick: Mr. Cronyn was closely involved, would you say, with the Government of Ontario, with the Conservative Party, with the work that is being done on Ontario^o/Hydro and with very close relationships with Mr. James Fleck and other members of the committee on government productivity.
~~_____~~

H 646 to follow

(Mr. Renwick)

Mr. Smith: Yes.

Mr. Renwick: Now, could I ask you about your letter to Mr. Seguin? Did anyone else know about that letter to Mr. Seguin which is exhibit - what, 159?

Mr. Gaunt: 169.

Mr. Smith: Did anyone else but who, Mr.

Renwick?

Mr. Renwick: At the time you were sending it to Mr. Seguin in August of 1972, did you discuss it with anyone else in your organization before sending it, or was it a personal confidential letter from you to Mr. Seguin?

Mr. Smith: Well, I might have talked it over with our vice-president, ~~James~~, but I don't - I think it was just between me and Mr. Seguin. I may have called Vernon in and just said, here is a letter I am writing, but I think it was just ~~xxxx~~ between Mr. Seguin and myself.

Mr. Renwick: You don't recall having ~~it~~ discussed it with anyone else before you sent it off?

Mr. Smith: I won't say I did or ~~did~~ didn't. I might have shown it to our Secretary Treasurer and asked him did he think it was good wording.

Mr. Renwick: Did you discuss it with Mr. Dillon of the Task Force Hydro?

Mr. Smith: I would say no to that. I don't recall.

Mr. Renwick: Would you have either ~~discussed~~ discussed it with or informed Mr. Cronyn that you were sending it?

Mr. Smith: No, I did not inform Mr. Cronyn or tell him.

Mr. Renwick: Now, on the one matter which I don't think

Mr. Smith: Mr. Dillon ^{had} told me that that was the person I could write to but I don't think ~~and~~ I didn't talk to Dillon about the Hydro project up to that time.

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DE

Mr. Renwick: Up to that time, but you did discuss it at the time when you were finding out whom you should write to?

Mr. Smith: That's right.

Mr. Renwick: Did you discuss with Mr. Dillon what you intended to say to Mr. Seguin?

Mr. Smith: No, I don't think so.

Mr. Renwick: Now, my recollection, Mr. ^{Smith} ~~Smith~~ is that you were not particularly successful in timing down the point at which or the period of time during which you became aware of the friendship between Mr. Moog and Mr. Davis?

Mr. Smith: I thought it was about May of 1972, but, Mr. Renwick, I just don't recall when I first ~~on~~ who told me first about it. I don't know.

Mr. Renwick: You were certainly aware of ~~that~~ it prior to the time when you had the conversation with Mr. Manthorpe of the Globe and Mail.

Mr. Smith: Well, I talked to Mr. Manthorpe as a result of Mr. Manthorpe's article in the Globe and Mail, and I think most of my knowledge came from the Globe and Mail but I won't say positively that I didn't hear about it before.

Mr. Renwick: The article in the Globe and Mail is one which I believe you ^{said you} ~~thought~~ Mr. Manthorpe had written in November or December of 1972.

Mr. Smith: That is right, but I certainly was under the impression that Mr. Davis was a friend of Mr. Moog's before that.

Mr. Renwick: Before that, and you think probably in May?

Mr. Smith: Well, it comes to mind. I am just trying to rack my brain to try and think of when I first heard about it.

Mr. Renwick: Could you help us in some way to determine whether or not it was prior to the time when you wrote the letter to Mr. Seguin in August of 1972?

Mr. Smith: I would say it was definitely before then.

Mr. Renwick: Definitely before that time.

Mr. Smith: That's my impression.

Mr. Renwick: Now, let's finish up that part of
it. I would like to put this to you as a question and as
a proposition. ~~That's the impression that I have~~
~~that~~

(H-647 to follow)

June 20, 1973
5.40 to 5.45
M.T.

H-647-1

(Mr. Renwick)

~~this is a question and answer session.~~ Given your forthright nature and assuming that aspect of it, you were a fund raiser ~~for~~ for the Ontario Conservative Party prior to the 1971 election.

Mr. Smith: Yes.

Mr. Renwick: Secondly, your company contributed a lump sum of \$5,500 to that campaign.

Mr. Smith: Yes.

Mr. Renwick: Mr. John Cronyn, who is very closely connected in the top levels of the Conservative Party and government of Ontario and with responsible positions with the Committee on Government Productivity and the Task Force Hydro and a director of your company, meant that you were secure in your relationship with influential people in the Conservative Party. That you were upset over a long period of time ^{by} ~~at~~ your failure to have had what you considered to be a fair chance on the Hydro head office building.

Mr. Smith: Right.

Mr. Renwick: And you registered in one way or another over a continuing period of time various complaints; a letter to Mr. Seguin, a telephone call with Mr. Manthorpe, a discussion with Mr. McAuliffe, and in various ways, registered that position. I put this to you, that it was because you had the credentials and the relationships, that you were in a position to complaining, and make your complaint ~~and~~ vocally and known and in a way which could be unmistakable.

Mr. Smith: I think I certainly made them known, yes.

Mr. Renwick: You had, I think I have used the term before, almost impeccable credentials; if anybody in Ontario was in a position to complain, your company was in a position to complain about what you considered to ^{be} ~~by~~ unfair treatment.

Mr. Smith: I think I would probably complain no matter who it was, really. I think I -

Mr. Renwick: But you were in a strong position to complain?

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5.40 to 5.45
M.T.

H-647-2

Mr. Smith: I was in a strong position because I —

Mr. Renwick: Mr. Shibley, stop me if this is not a fair question; as fund raiser for the Conservative Party, and in addition to ~~the~~ your own contribution or your own company's contribution of the \$5,500, what would be the amount of money that, in round figures, that you were able to collect for the provincial Ontario Conservative Party, in 1971?

Mr. Smith: Oh, I was just helping somebody make some calls, I just made about six calls.

Mr. Renwick: And were they pretty successful calls?

Mr. Smith: No, they weren't. They were reasonable calls, ^{but} there were just six businesses in London, and I went around and called on them and —

Mr. Renwick: All right, now, turning to another —

Mr. Bullbrook: Before you leave that —

Mr. Renwick: Oh, sorry.

Mr. Bullbrook: May I?

Mr. Renwick: Yes, certainly.

Mr. Bullbrook: Since we are talking at this stage about the friendship of ~~the~~ builders with the seats of the mighty, I want to relate, Mr. Smith, to you, the evidence of Mr. Candy as follows. And it's on page H-384-3 of the Hansard copy ~~and it's~~ dated June 12, 1973 taken between 4:10 and 4:15 p.m. Mr. Shibley in a line of questioning said to Mr. Candy;

"But you are very conscious of the political ramifications of what you are doing, are you not?"

"Mr. Candy: Yes, for instance, when Don Smith came in to see me, of Ellis-Don, he told me on two or three occasions how ~~all~~ well he knew Mr. Roberts, and Mr. Roberts used to go up to his cottage on the weekend. It didn't mean a thing to me. I couldn't have cared who went to whose cottage and I am frank about it. I am honest about it. I just didn't.

Tape H-648 follows

June 20, 1973
5:45 - 5:50 p.m.
M.R.

(Mr. Bullbrook)

~~...he knew Mr. Roberts and he Robert's cottage was up the
cottage on the weekends. It didn't mean a thing to me.~~
I couldn't have cared who went to ^{whose} ~~Robert's~~ cottage, and I'm
frank about it. I'm honest about it. I just didn't

Could you confirm that that evidence is correct?

Mr. Smith: I don't deny it. I might have said
I knew Mr. Roberts. I am fairly definite in saying I did
not mention it to Mr. Candy during the ~~the~~ tendering time.
If I did say it at that time, then my recollection is wrong,
because I had two short meetings with him at that time.
I don't deny I said it. I don't recall when I did say it.
Mr. Roberts has never been up to my cottage because he doesn't
have much need to go to my cottage. He just lives two doors
away.

Mr. Bullbrook: He lives two doors away from ...?

Mr. Smith: ^(Can pretty well) He stays at his own.

Mr. Bullbrook: You say he lives two doors away
from you?

Mr. Smith: Yes, up at Grand Bend. He stays at
his own cottage.

Mr. Chairman: At the cottage, not in ~~London~~ London?

Mr. Smith: No, at the cottage. So he hasn't stayed
at my cottage on weekends or anything like that.

Mr. Bullbrook: Well, I want you to know that as
I read the evidence and heard it on that occasion, Mr. Candy
was unequivocally ^{relating} ~~relating~~ to your visitations with respect
to this particular involvement; that is, the head office of
Hydro. Now, are you telling us that ^{to} the best of your
recollection, you didn't on two or three occasions tell
Mr. Candy how well you knew Mr. Roberts?

Mr. Smith: No, I'm saying I could have told him
I knew Mr. Roberts.

Mr. Bullbrook: On two or three occasions.

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M.R.

Mr. Smith: I don't think I did on two or three occasions but I can remember the meeting in January, when we were putting in the tender, and that was all business, and we got the specifications and Mr. Candy.

Mr. Bullbrook: Your counsel wants to interrupt.

Mr. King: No, I didn't want to interrupt the flow of Mr. Smith's answer, but I wonder if the question could be clarified that that is the evidence that Mr. Candy gave. Did Mr. Candy say that the two or three ~~was~~ occasions were during the negotiations or the period that this contract was pending or did he say just two or three occasions any time?

Mr. Bullbrook: Well, I ...

Mr. Chairman: What is the reference to that again, Mr. Bullbrook?

Mr. Bullbrook: We are carrying on with Mr. Shibley's interrogation of Mr. Candy as to whether he is affected by --, if I may say again -- the seats of the mighty, and he says ...

Mr. ~~W~~ Hodgson: It was name-dropping, wasn't it?

Mr. Bullbrook: Well, before he accused Mr. -- or he didn't accuse -- he thought that Mr. Smith might have been bragging a little.

Mr. Gaunt: Mr. Moog was bragging.

Mr. Bullbrook: Mr. Moog - I'm sorry - Mr. Moog was bragging a little. For counsel's benefit, may I say ~~that~~ it was the word when Don Smith came in to see me, of Ellis-Don it was the ~~word~~ "Don Smith came in to see me." It was the context of the fact that we were referring only to the head office building; I inferred from that, that Mr. Candy meant on that occasion.

Mr. Walker: It wouldn't do much good about that time. It was no longer ...

Mr. Chairman: Are you satisfied Mr. King that ...

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M.R.

Bullbrook:

Mr. ~~Smith~~ Well let me say this. May I say

this to you, sir. The purpose of this line of questioning is to get to the motivation, be it at that occasion or some other occasion. We now have the evidence of the witness saying he might well have on two or three occasions told Mr. Candy, the chief architect of Hyaro, that he was a personal friend of Premier Roberts.

Mr. ~~Bullbrook~~ King: Well, I think, witness,

Mr. Smith ^{said} he did on one occasion, but when is another matter.

Mr. Bullbrook: Well then, I want to clarify that, ~~with~~ Mr. King, if I may, okay.

Mr. King: Sure.

Mr. Bullbrook: I want to clarify that. Because I thought I had. I understood your evidence first to be that you recall having said that to Mr. Candy on one occasion.

Mr. Smith: That's right. I could possibly have said it.

Mr. Bullbrook: ^{You} ~~A~~ could have possibly said it on more than one occasion? Is that correct?

Mr. Smith: I don't think so.

Mr. Bullbrook: Well are you saying you could possibly have said it? You might have said it, is that it?

Mr. Smith: I might have said it on one occasion and I could have said it on two; I don't recall.

Mr. Bullbrook: Well, I want to know why ~~would~~ would you tell Mr. Candy that you were a friend of Mr. Roberts? What was the motivation there?

Mr. Smith: I don't know.

Mr. Bullbrook: You don't know?

Mr. Smith: No, I don't know.

I don't know. ~~He~~ could have been talking about Grand Bend.

~~He~~ ^{he} could have been talking about summer, I don't know.

~~Mr. Bullbrook: I don't know.~~

~~Mr. Gaunt: On political~~
~~Mr. Bullbrook:~~
~~Mr. Smith: NO, Mr Roberts was not in politics at~~

that time, or he was just about out of politics. He was very active. I

MR. Bullbrook: Well, could you help me in this respect? Could you tell us that your motivation was not to influence in any way any decisions of Ontario Hydro with respect to any contracts that you might secure from Ontario Hydro?

MR. Smith: I would say that I had no motivation in mentioning that, although I'll be perfectly honest -- I am quoting on a large contract now and I made myself known to the board of directors of this corporation and I mention^{ed} I was a friend of the chairman of the board. That's so you are not going to get an unfair share.

MR. Bullbrook: MR. Smith.

MR. Smith: And if somebody knows that you know somebody, you stand a better chance of not getting a double deal.

MR. Bullbrook: Right.

MR. Smith: And if I did mention it, it would be in that context.

MR. Bullbrook: And the chairman of the biggest board right now is William Grenville Davis.

MR. Smith: All right, I

MR. Bullbrook: and the chairman of the biggest board was John Roberts, right?

MR. Smith: All right.

MR. Bullbrook: And isn't it a fact that you do considerable ~~considerable~~ volume of institutional work relating to government expenditures?

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1:50 - 5:55 P.M.
P. 23..

Bayley - 1

Mr. Smith: Yes, certainly.

Mr. Ballbroek: I believe, Right

Mr. Smith: That is where most of your construction dollar comes from

Mr. Ballbroek: I think that in that context the biggest chairman of the biggest board in the Province of Ontario, right?

Mr. M. Ballbroek: I would better believe so!

Mr. Smith: Certainly.

Mr. Ballbroek: Absolutely, absolutely.

Mr. Smith: Can't very well deny that.

Mr. Renwick: And Mr. Chairman, if I may ask

Mr. Smith, did you feel that you got caught in the flow of political power from London, Ontario to Brampton, Ontario?

Mr. Smith: No, I did not.

Mr. Ballbroek: I wanted to clarify one other thing, if you will permit. I believe that is a discussion. I want to clarify your...

Mr. Smith: ...

Mr. Ballbroek: ...

Mr. Smith: ...

this area because the members of the committee have called it in death. I believe that is what is his file, being referred to. ... there is an office memorandum ... to the same issue.

Mr. Ballbroek: ...

Mr. Smith: ... This is the title of the file referred to -- ask you see your memorandum to Fern Bayley from D.J. Smith ...

Mr. Smith: ...

Mr. Ballbroek: No, that was the same day on which you had written ... and on that day you named Mr. Bayley as follows: ... the 21st, and I believe ... see ...

(Mr. Shibley)

"Open a few doors for you. I think it would be a good idea to see Candy Monday on Tuesday night. It might not hurt to talk to John White too."

Mr. Smith: Well,

~~Mr. Bullbrook: He is the next!~~

Mr. Shibley: Now, Mr. Smith,

~~Mr. Bullbrook: He is the next!~~ will be the next.

Mr. ~~Bullbrook~~ ~~is the next!~~

MR. Bullbrook: He is the next!

MR. Shibley: In the light of the ~~and~~

~~Renwick:~~

MR. ~~Bullbrook~~: Jim, he is the next!

Mr. Bullbrook: These are the next line of questions.

Mr. Shibley: In the light of these comments that you made to Mr. Bayley in that memorandum, I ask you to consider further the response that you made to Mr. Bullbrook, referable to his last ~~series~~ of questions. Isn't it ~~the~~

Mr. Smith: ~~Yes~~ ^{the point} about Mr. Roberts?

Mr. Shibley: Yes, well, the ~~point~~ point I am driving at, Mr. Smith, is that you were very alert to employ every contact that might be available.

(Time A-51 - 1 follows)

(Mr. Shibley)

~~... that you are very close to employ some~~
~~contact that might be available to you politically to advance~~
the acceptance of your proposal, were you not?

Mr. Smith: Sure.

Mr. Shibley: And, so there is no use ~~...~~

Mr. Bullbrook: ^{You are} Disarmingly honest, and a great witness,
and very forthright. You are to be complimented, I'll tell you
that.

Mr. Smith: I wasn't trying to use influence. I was trying
to find out what was going on.

Mr. Shibley: ^{I see.} That was going to be my next question. On
February 17 you wrote to Mr. Gordon, and you ~~wrote because~~
wrote because you were concerned about the dinner comments made
by Mr. Tamblyn.

Mr. Smith: Right.

Mr. Shibley: I want to know why you were starting to
establish lines of communication with Dick Dillon, with Candy, with
John White, ^{with} Doug Gordon. What was your purpose in lining up these
people at that time?

Mr. Smith: My main purpose was the result directly of
that dinner.

Shibley:
Mr. Smith: Yes.

Mr. Smith: And I was trying to find out what was going on.

Shibley:
Mr. Smith: Yes.

Mr. Smith: And ^{there was} the chance of losing a job, I wanted
to find out where it stood.

Mr. Shibley: And the John White to whom you make reference
here is whom?

Mr. Smith: He is the provincial ^Treasurer, I believe,
at the present time.

Mr. Shibley: And the Dick Dillon that you refer to here
is the same Dick Dillon ^{who} was referenced earlier?

Mr. Smith: Right.

Mr. G. Hodgson: Would John White be your provincial
member for your home area?

Mr. Smith: No. Gordon Walker is.

Mr. Gaunt: ~~We~~ ^{they} will ~~their~~ ^{their} backs up.

Mr. Shibley: Why wasn't he communicated with?

Mr. Chairman: He wasn't high enough ^{up} in the hierarchy.

Mr. Bullbrook: A new boy.

Mr. Smith: Yes; I'll move to Brampton.

Mr. King: ^{and} Mr. Chairman, before we leave this subject, before you adjourn for the day, since we are dealing with this particular subject, Mr. Smith was asked about all the government work he did. Would Mr. Shibley be willing to ask him whether or not all the government work that he has done to date ~~was~~ ^{ed} was by way of ^{the} usual public ~~work~~ ^{ed} seal tenders, to the lowest bidder?

Mr. Bullbrook: Good question.

Mr. Shibley: Thank you, Mr. King. Mr. Smith,

~~I~~ I understand that you have done a huge amount of construction over the years that you have been in business.

Mr. Smith: About \$800 million.

Mr. Shibley: And in respect of every job that you ultimately succeeded in obtaining, was the job such that it was tendered for bids by a number of builders?

Mr. Smith: I've never had a negotiated job with any government or educational ~~institution~~ ^{institution} either federal or provincial ~~other than~~ ^{government} on a tendered low-bid basis. Never. And I have never asked for any political influence to get me a contract.

Mr. Shibley: You mentioned earlier that your margin of profit is 1 per cent. ~~When you mention that~~

Mr. Smith: That is a gross margin, not a net.

Mr. Shibley: Yes. When you mention that factor, do you apply it against the whole of the volume to which you have made reference?

Mr. Smith: Yes.

Mr. Shibley: So that you have from the outset, and throughout the period of the operations of this company, and covering the very large volume of construction, operated as close to the line as 1 per cent gross profit?

1-1-1-
Mr. Smith: Gross before taxes of ~~less~~ about 1 per cent.

Mr. Shibley: So I take it, so far as you are concerned, the jobs that you got were obtained by you because you were totally competitive?

Mr. Smith: That's right. ^{We've} ~~we~~ never had one given to us by any ~~single~~ government or body of any kind. And I have never asked for one either.

Mr. Chairman: Mr. Allan.

Mr. Allan: Mr. Chairman, in view of some of the questions that have been asked and the inference ^{or that} I think may have resulted from those questions, I would like to ask Mr. Smith whether he feels the fact that he has been a fund-raiser for political parties has been of any use to him in obtaining these great number of contracts that ^{he has} ~~he has~~ obtained.

~~Mr. Smith: I only want to add that I will in my entire life for the~~

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cent: (Mr. Allan)

~~the provincial parties have agreed to share the business obtaining these contracts of contracts that you have completed.~~

Mr. ~~W. W.~~ Smith: I only went out and made six calls in my entire life for the Conservative Party, and I made them with Colin Brown that one year because he asked me if I would go out with him. That is the ~~only~~ only time I have every done it when I was a Conservative.

Mr. Allan: What I was more concerned about, do you feel that the amount of the work you have done or any contributions you have made ~~were~~ were of any use to you in ~~the~~ obtaining these contracts?

Mr. ~~W. W.~~ Smith: I don't think anybody would give you any contracts for the amount I obtained.

Mr. Allan: Then would you think that anybody would give you any contract, no matter how much you obtained?

Mr. ~~W. W.~~ ~~Allan~~ Smith: No, I wouldn't work for that reason.

Mr. Allan: Didn't you get your contracts in open bidding?

Mr. ~~W. W.~~ Smith: Yes. I got them all in open bidding. And I have never done a contract for the ^{Ontario} ~~Ontario~~ Yes, I have a I got a ~~contract~~ Department of Transport job, since that time, but that is just recently.

Mr. ~~Chairman~~ Chairman: ^{IS THAT SINCE THE INQUIRY STARTED?} ~~Is that since the inquiry started?~~

Mr. ~~W. W.~~ Smith: You have to realize that we bid on approximately \$25 million worth of work a month..

Mr. Bullbrook: Everybody wants to be fair. ^{They} ~~We~~ are now being fair to you, I guess.

I wanted to ask you one question that I think is important and I hope is not offensive to anyone. In connection with your donations in September 71, October 71 and November of 71 to C. M. King for \$2,000, for whose benefit was that donation made, do you know?

Mr. ~~W. W.~~ Smith: I ~~thought~~ thought it was the Conservatives.

Mr. Bullbrook: Do you know the individual candidate?

Mr. ~~W. W.~~ Smith: I didn't think it was ~~a~~ for a candidate. I thought it was..

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Mr. Bullbrook: Just general.

Mr. J. D. Smith: ~~Just~~ I thought it was just general.

Mr. Bullbrook: The fact ~~that~~ that the donations were made proximate to the time of the last provincial election didn't cause you to wonder for whose benefit the donation was being made

Mr. J. D. Smith: No, ~~because~~ I thought that they were for the ~~member~~ I am sure that they were for the overall. They ~~was~~ were not for a member.

Mr. Bullbrook: They weren't for any individual member? *That's your evidence?*

Mr. J. D. Smith: I would say they were not for any member. ~~the overall.~~
My recollection is that they were for ~~the overall.~~

Mr. Chairman: Ladies and ~~the~~ gentlemen, it has been an interesting afternoon. I see Mr. GEnest signalling to me; I was just going to adjourn it. I didn't want the members to leave the building, ^{through.} ~~Now~~ I understand ~~that~~ there will be a vote close to six o'clock.

Mr. Penwick: Is that right?

Mr. Chairman: Now that is private Conservative information, but I ~~want~~ to be ~~clear~~ ~~clear~~.

Mr. GEnest: Mr. Chairman I realize you are going to break now and I have to go back to Yellowknife tonight to see how they have been getting on without me, ~~and~~ I just wanted to make onepoint because I won't be here tomorrow. ~~Now~~ Mr. McCallum is arriving a late; in connection with Mr. Smith's evidence that I should have made at the end of it, but I would like ~~to make~~ ~~now~~.

Mr. Smith this morning was taken over a number of figures which required study on the part of my clients and I would like, if I ^{MAY} to reserve ~~it~~, I don't want any ruling now, but I want to reserve my position, and my right to ask the committee once these analyses have been finished for leave to have Mr. Smith recalled if we feel that additional questions should be put to him, either by cross-examination, if I am allowed to do it at the time, or through Mr. Shibley if that is the committee's wish, dealing with the evidence

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(Mr. Genest)

that he gave.

Mr. Chairman: Well, I think we have a general ruling here that all the witnesses are subject to recall, so I don't want to make a special ruling on this one at ~~this~~ this time, but your objection has been noted.

Mr. Genest: Not ^{an} objection.

Mr. Chairman: Well, all right, your point has been noted, and I am sure the door is open for you to make it again later on. 9:30 tomorrow is ^{the} ~~the~~ time that we will get back in session, ^{and} all being well, ^{we} are now adjourned until that time.

The committee adjourned at 6:05 p.m.

XXXXXX

June 20/73
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PLG

(Mr. Genest)

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The committee adjourned at 6:05 p.m.

Exp:xxMx652

14
LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Thursday, June 21, 1973.

Morning session

652-682

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
Counsel to J.D. Smith:	T.A. King, QC
President, Ellis-Don Ltd.:	J.D. Smith
Senior Vice-President, John Labatt Ltd.:	J.B. Cronyn

The committee met at 9:45 o'clock, a.m. in ^{the} members' board room.

Mr. Chairman: Ladies and gentlemen, I call the meeting to order. Mr. Walker has a statement which he wants to make, I believe.

Mr. G.W. Walker: Mr. Chairman, it appears by the look of the people anticipated to testify today that about half my ~~constituency~~ constituency has arrived.

I just want to make clear the fact, ~~that~~ as I have now learned the witnesses to testify ~~that~~ ^{and} to make sure that the record is certainly straight, that these people are friends of mine in varying degrees. Mr. Cronyn, who will testify later, I understand, is certainly a friend and supporter of mind.

Mr. Chairman: That all depends!

Mr. Walker: Well, that is what I was told. I was most amazed yesterday to learn that Mr. Smith had collected some funds; Having known that he was collecting last year for the Liberal Party I always surmise the opposite direction. It was rather fascinating to learn.

Mr. Renwick: That is normal in Canadian politics.

Mr. Walker: It is an amazing twist-about.

Mr. Bullbrook: I wish you'd distinguish that it was the federal Liberal Party...

Mr. Renwick: ^{The same people collect} for the Tory party provincially.

Mr. Walker: Anyway, let me say that it was quite a surprise, and I merely want to make sure that the record is ~~is~~ straightened at this point, and I understand that the secretary, Mrs. Shuttleworth, will be testifying, and I am not unacquainted with her. I understand that.

Mr. Shibley: You'd better clear that up!

Mr. Walker: Well, she assured me that she was in my campaign headquarters last year only, and just allowing me to put that on the record, Mr. Chairman, I'll leave it at that.

R.
Mr./G. Hodgson: What does he define as friendship?

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Mr. Renwick: We try to discount all our particular partialities in this committee.

Mr. R.G. Hodgson: Mr. Walker, what do you define as friendship?

Mr. Walker: I cannot define friendship. I think it ranges through everything from an initial meeting to a very close friend.

Mr. Chairman: Mr. Shibley.

Mr. Shibley: Thank you. I recall Mr. Smith, please.

Mr. Smith, I want to direct your attention to the document in your file which is styled "Points re Hydro", there being 16 points on two sheets.

Mr. J.D. Smith: I don't think I have that.

Mr. Shibley: Have you located it?

Mr. Bullbrook: How is it headed up, Mr. Shibley?

Mr. Shibley: Styled ^{Points} ~~Points~~ re Hydro, numbers 1 to 5 on page 1, and 6 to 16 on page 2.

Mr. Smith: I have that now.

Mr. Shibley: In item 16 I note you state;

"We should estimate our cost of maintenance now in conjunction with property management firm and tell Hydro the ~~fixx~~ figures will ~~next~~ escalate from today on". I just want it clear as to whether the ~~submition~~ submission you made to Hydro, ~~was~~ referable to maintenance, was based on a figure with a base year ^{of} 1972 as opposed to a projection forward to the year of completion of the building in 1975?

Mr. Smith: I'm not just sure, Mr. Shibley. The figures we had in the 95 cents would relate to 1975, and I can't answer about the 30 cents that was for cleaning. I can't answer whether that was

Mr. Shibley: I'll take you then to the second document within your file. That is the one with the phone number at the face page, "Total Rent", and then the second ^{page} ~~page~~ breaks out operating ~~fixx~~ costs. This is the hand-printed document.

Mr. Smith: Oh, yes.

Mr. Shibley: And that is the document that breaks out the 95 cents ^{0.5} to operating costs. ~~So~~ Again, you told us yesterday

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M.F.

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(Mr. Shibley)

you included the 95 cents into the \$1.23 figure, the differential being your profit, whether you wanted to call it profit for maintenance, financing, and so on, is that correct?

Mr. Smith: That is right.

Mr. Shibley: ~~And~~ what I want to know is whether the 95-cent figure here was a figure based on 1972 costs without escalation for the period pending construction of the building?

Mr. Smith: No, we were prepared to live with the 95 cents as being a 1975 figure when we put it in.

Mr. Shibley: So that that is inconsistent with item 16 in the first document to which ^{have} I referred you this morning, which suggests an intention that escalation would be from today on?

Mr. Smith: That is right. The notes in "Points re Hydro" ^{were} ~~was~~ merely given to me from Jack Sims and ^{they} ~~these~~ were things I should consider, ~~and~~ I put this together the morning that we put the proposal in and I put it in ~~the~~ figures I thought we could live with in 1975, and you can see I have upped the janitor services from \$240,000 to \$300,000.

Mr. Shibley: Were these increases, to the left of the original figures, in some cases increases reflecting the escalation you anticipated?

Mr. Smith: No, they were reflecting actually the latest figures that we got in and the latest analysis that we did, ~~and~~ I went down those figures on the Monday morning and I put in what I thought we could live with.

Mr. Shibley: Putting it another way, If Hydro had come back to you and engaged you in intense negotiations referable to specific provisions of a contract, would you have been prepared to agree to a rental rate of \$4.65 in an agreement which provided for maintenance costs to be included as at 1975,

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(Mr. Shibley)

with no escalation for a period of a year thereafter?

Mr. Smith: Yes, I would have.

Mr. Shibley: All right. Now the second item I want to clear up with you is: On the second document to which I referred you, the operating costs, the first item listed as heat and light by owner ~~is~~. Do you see that?

Mr. Smith: Yes.

Mr. Shibley: ~~And~~ With respect to heat, I would like to know ~~how you concluded that heat~~ how you concluded that heat for the building was to be at the owner's cost?

Mr. Smith: It was my understanding at the time that the building was to be heated with the electrical, using the lights, and a heat pump, I believe, that type of installation, ~~and~~ it was going to be heated electrically from the lights, and that the Hydro was going to supply the power for those lights.

Mr. Shibley: ~~On~~ On the basis that a unique heating system was to be employed, namely heating with the lighting system ~~-----~~

Mr. Smith: That is right.

Mr. Shibley: I think the body heat of the persons occupying the building also ^{is} ~~was~~ a contributing factor, is it not?

Mr. Smith: Yes.

Mr. Shibley: And because the ~~system~~ ^{costs} for lighting was at Hydro's costs, ~~and~~ you were proceeding on the basis that heat was an included item for the account of Hydro?

Mr. Smith: That is right.

Mr. Shibley: All right. Then with respect to ~~-----~~

Mr. Smith: We added power in there for all the other equipment, that was \$250,000 a year. That was from Tamblyn's letter.

Mr. Shibley: All right. Now I want to deal next with the specifications that you were provided with. You indicated

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M.F.

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(Mr. Shibley)

yesterday that you have acted as a developer with respect to some other buildings ~~and~~ I want to ask you how the specifications provided to you in respect of those development projects compared with the specifications provided to you by Hydro in this case.

~~Mr. Smith: I don't~~ -----

Tape H - 654 follows

June 21/73
9.55 to 10.00 am
fvk

(Mr. Shibley)

~~... and specifications provided to you by Hydro in this case?~~

Mr. Smith: I don't have one of the specifications with me. They're fairly detailed specifications.

Mr. Shibley: In what respect would you say that more information was provided ^(I'm now talking about) on development projects as opposed to buildings which were fully planned, ^{spec-ed} and submitted for tender for construction only? You appreciate the distinction. I'm sure, Mr. Smith, ^{to yesterday} on the development projects which you referred ~~to yesterday~~ was there in the information provided to you as compared with the information provided by Hydro for this project?

Mr. Smith: You get a much more detailed specification. ~~I~~ I just don't recall but I would think that some of them might run ^{to} 50 pages of specification.

Mr. Shibley: On a development project?

Mr. Smith: Yes.

Mr. Shibley: I see. In these cases, was the developer left to his own devices, so to speak, as to submitting a rough outline of designs?

Mr. Smith: That's right, yes.

Mr. Shibley: So that you were accustomed to being confronted with the need to submit a proposed design for the buildings to be developed?

Mr. Smith: Yes, I was.

Mr. Shibley: In this particular case, Mr. Smith, ~~each~~ Y&R, Horizon and Canada Square did submit designs. Your firm did not. Could you give some explanation to this committee as to why you did not submit a design?

Mr. Smith: The reason we didn't was ^{fairly} very obvious. It was a ~~fairly~~ fairly complicated proposal and we only had 10 working days or nine working days to work on it. I think we probably could ~~not~~ have got designs into them if we had had a month or six weeks. Generally, ^a proposal call is two months ^{as} put

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fvk

(Mr. Smith)

out by Ontario Housing Corporation or Ontario Student & Housing. It's generally about two months and it gives you plenty of time to go into design and concepts.

Mr. Shibley: Would you agree with me that in respect of a development-type projects it is usual for the ~~developer~~ ^{ting} developer submit a proposal to submit some design drawings?

Mr. Smith: I don't know how you can analyse one unless you do have design drawings and specifications.

Mr. Shibley: In this case, you did not and I'd like you to tell the committee why you didn't.

Mr. Smith: We were told that drawings and specifications were not necessary at this time and not to go into them.

Mr. Shibley: All right. So this was along the same line of treating this effort as being of a preliminary nature?

Mr. Smith: That is right.

Mr. Shibley: I realize I'm jumping from point to point but we dealt with your evidence in full yesterday. I want to just complete ~~an~~ a number of ^{out} standing items. Yesterday you made reference to the fact that you were away at the time of the Globe and Mail publication. Is that correct?

Mr. Smith: That is right.

Mr. Shibley: How long after April 30 did you receive a copy of that publication?

Mr. Smith: How long after? ⁹ Nine days; eight or nine days.

Mr. Shibley: Eight or nine days. You received it in Rome, you said.

Mr. Smith: That's right.

Mr. Shibley: Who forwarded it to you?

Mr. Smith: My secretary did.

Mr. Shibley: Did she forward it to you under cover of a letter?

Mr. Smith: Yes.

Mr. Shibley: Do you have that letter?

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10-10.05 a.m.
E.M.

H-655-1

(Mr. Shibley)

~~here today and I intended to call ---~~

~~Mr. Smith: I don't think it is in existence, I~~
~~left everything there.~~

~~Mr. Shibley: So that ---~~

Mr. Bullbrook: I'm sorry. I just have to understand
this for a moment, and I realize this is difficult for you. Is
the witness saying there is no copy of that letter?

Mr. Smith: It was just a note saying, "Here's the
Globe and Mail, ~~for~~"

Mr. Shibley: I intend to call the secretary, Mr.
Bullbrook. She is here today.

Mr. Bullbrook: Yes, I know that, Mr. Shibley, it is
just that normally in a business operation there is a copy of
communications.

Mr. Shibley: I ~~underskandx~~ realize that.
Mr. Smith, again, I have already asked you the question. You
say you don't have the letter?

Mr. Smith: No, I don't think I have it, I think I
threw all those things out. I think I carried them around
for a couple of days, re-read them over ~~---~~

Mr. Shibley: Was ~~xxxxx~~ this a typed letter?

Mr. Smith: No, I would say no.

Mr. Shibley: A handwritten note?

Mr. Smith: Yes.

Mr. Shibley: By your secretary?

Mr. Smith: Yes.

Mr. Shibley: Would there be a carbon copy of that
letter?

Mr. Smith: No, I wouldn't think so.

Mr. Shibley: All right. To the best of your

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E.M.

H-655-2

(Mr. Shibley)

recollection, what did the letter say?

Mr. Smith: It just said that something had hit the fan or something like that. Something to that effect.

Mr. Shibley: Something had hit the fan. This is one time I am not going to ask you what hit the fan. All right, something had hit the fan, and did she give you particulars as to

Mr. Smith: She mailed me all the clippings. ~~xxxxxx~~

Mr. Shibley: She did mail you the clippings?

Mr. Smith: She mailed me all the clippings from all the papers.

Mr. Shibley: All right. Did you issue any instructions to her by telegram, Telex or phone?

Mr. Smith: No. I talked to our vice-president about a bid. I phoned him ~~from~~ I believe, from Rome; I believe it was from Rome.

Mr. Shibley: Yes.

Mr. Smith: ~~And~~ About a contract we were bidding on for the Bank of Canada in Ottawa, and I said, the Globe and Mail came out ^{maybe} in the same kind of language. The Globe and Mail put quite an article in and I said "I am going to have a good holiday and I am not going to worry about it." That was my approach and that is what I did.

Mr. Shibley: Who was this man to whom you were talking?

Mr. Smith: Mr. Bayley ^{who} is our vice-president.

Mr. Shibley: And he was here in Toronto?

Mr. Smith: He was in London.

Mr. Shibley: In London, Ontario, when you made this call to him?

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E.M.

Mr. Smith: I called him about the tender we were putting in on a \$25-million contract in Ottawa, ~~and~~ I said the Globe put quite an article in and I said I am not going to worry about it or have anything to do about it, I am going to enjoy my holiday and I ~~will~~^{will} be back in two weeks.

Mr. Shibley: This communication ~~that~~^{then} would be shortly after the 8th or 9th of May?

Mr. Smith: That's right.

Mr. Shibley: ~~And~~ ^aby this time, ^ahearing had been directed to be convened of this committee?

Mr. Smith: I'm not sure.

Mr. Shibley: Were you aware of that?

Mr. Smith: No.

Mr. Shibley: Not being aware of it, why didn't you instruct Mr. Bayley to register a complaint with the author of the article, that it was incorrect?

Mr. Smith: I told you yesterday that my secretary phoned Mr. McAuliffe and she was trying to get him and he didn't return the call.

Mr. Shibley: Were you aware that ~~---~~

Mr. Smith: Mr. Bayley, I think, I talked to him when I came back and he said we'd better just ~~---~~

Mr. Shibley: Well, were you aware at the time you spoke to Mr. Bayley that your secretary had been unsuccessful in reaching Mr. McAuliffe?

Mr. Smith: No, I don't think so.

Mr. Shibley: So I take it that you didn't enquire of Mr. ~~Bay~~ Bayley whether there had been any communication on the part of anyone within your firm with Mr. McAuliffe of the Globe and Mail?

Mr. Smith: Oh, well, he might have said that she tried to get him; I don't know. But he and I decided not to do anything anyway.

Mr. Shibley: Yes, but at the time you made that decision, you were not aware of any attempt ^{at} ~~of~~ communication with the Globe and Mail?

Mr. Smith: I don't recall, really. She did tell me that she tried to get McAuliffe, ^{and} he hadn't returned the call. When she told me that I just don't recall. ~~It might have~~

(Tape H-656 follows)

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10:05 - 10:10 am.
M.S.

(Mr. Smith)

~~she had tried to get McAuliffe and he hadn't returned the call.~~
~~Now, when she told me that I just don't recall.~~ It might have
even been in the note that she wrote me, or it might have been
~~when~~ when I came back.

Mr. Shibley: But, Mr. Smith, as at the time
you were speaking to Mr. Bayley, whether by reason of her note
or whatever he said to you, you knew then that there had been
no communication with the Globe and Mail complaining of the
content of that report?

Mr. Smith: That's right.

Mr. Shibley: And you ~~have~~ ^{don't} yet to know that
there was a select committee of the Legislature named to conduct
a hearing?

Mr. Smith: Yes.

Mr. Shibley: Why, then, did you not instruct Mr.
Bayley, as a person of responsibility, to pursue the matter with
the Globe and Mail, contradicting the quotation which was ~~said in~~ ^{salient}

Mr. Smith: Because I was ~~a~~ ^{the} person in the Hydro
thing. Mr. Bayley does the estimating. I figured this was one
of my battles and I'm not going to get everybody enmeshed in it
in the company. I can fight my own battles, and I didn't figure
I was going to bother Mr. Bayley with that, really.

Mr. Shibley: Mr. Smith, you've already said you
decided to stay where you were and have a holiday.

Mr. Smith: That's right.

Mr. Shibley: And you were quote content, therefore,
to leave the impression with the public, for a continuing period of
time, that you had made that statement to Mr. McAuliffe, knowing
that no one had communicated with the newspaper to advise them that
you considered that you had been inaccurately quoted?

Mr. Smith: That is right. I think the papers

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M.S.

(Mr. Smith)

quote people inaccurately from time to time and ~~and~~

Mr. Shibley: Yesterday, you gave as your explanation for not following through, your awareness that a committee had been constituted to conduct a hearing. Today, you are saying that at the time when you decided not to follow through, while you were in Rome, that didn't enter into your considerations, did it?

Mr. Smith: You've got me confused now. What??

Mr. Shibley: Yesterday, the explanation you gave for not following through with the Globe and Mail was that by the time it came to your attention you knew that there was a select committee appointed to conduct a hearing.

Mr. Smith: That's right.

Mr. Shibley: Yes. But today you are telling us at the time it came to your attention, and for some days after ~~and~~

Mr. Smith: No, When I came back from my holiday, somebody said "are you going to do anything about it?" And when I came back they told me there had been a select committee and so I decided, at that time, not to do anything about it then.

Mr. Shibley: How long after you received your secretary's communication was it before you returned to Canada?

Mr. Smith: Two weeks.

Mr. Shibley: And for a period of two weeks you were content to leave the article without contradiction?

Mr. Smith: Yes, I was.

Mr. Shibley: Did you not consider it a material representation?

Mr. Smith: I don't think things get all tied up in two weeks, and I don't think the world changes in two weeks; and so I wasn't going to do anything for two weeks.

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M.S.

Mr. Smith: I was trying to find out what was going on ~~at~~ the Hydro. I was not trying to exert any pressure. I was merely trying to find out what the status of the contract was.

Mr. Shibley: My only purpose in referencing your earlier statements as to the various people that might be contacted for whatever reasons, was to indicate that you were a politically ~~/~~aware individual.

~~Mr. Smith: I don't know what you mean by politically aware. I don't dabble in politics.....~~

Tape H 657 follows

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10L10-10:15 am

C.B.

~~-(Mr. Smith)-~~

~~(Mr. Shibley)~~

~~politically aware individual.~~

Mr. Smith: I don't know what you mean b_y
politically aware. I don't dabble in politics and I
don't ~~know~~

Mr. Smith: Were you not conscious of the
consequences of that type ^{of} quotation upon people such
as those with whom you had contact in the political world?

Mr. Smith: I thought I had been misquoted,
I did not get upset about it. When I take a holiday,
I take a holiday because I work hard all the rest of
the year; and when I take a holiday I go away and
forget things, and I took a holiday and ~~misquoting~~

Mr. Shibley: Well, Mr. Smith, ~~misquoting~~

Mr. Smith: I didn't figure I could do anything
about it in Rome. So I didn't do anything about it.

Mr. Shibley: You didn't get upset about
it, but your secretary did.

Mr. Smith: No.

Mr. Shibley: Well, you said that yesterday.

Mr. Smith: Sure, she was mad at Mr. McAuliffe
for misquoting.

Mr. Shibley: Are you suggesting that your secretary
is more responsive to a misquote than you yourself?

Mr. Smith: Maybe she's due for promotion,
I don't know.

Mr. Bullbrook: Mr. Shibley ~~misquoting~~

Mr. Shibley: Yes.

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10:10-10:15 am

C.B.

Mr. Bullbrook: Really, the witness has said when he takes a holiday he takes a holiday. You've just elicited five minutes ago from him that he was the phone to his vice-president about a \$25-million job.

Mr. Shibley: I realize that, Mr. Bullbrook, and it is well taken point. The fact is,

Mr. Smith: At least I don't phone back every day, Mr. Bullbrook. I phoned back once, and I think a \$25-million contract is worth a phone call.

Mr. Shibley: Mr. Smith, the point is that you were in communication with your London office.

Mr. Smith: Right.

Mr. Shibley: You had every opportunity to communicate a correction to the author of the article through Mr. Bayley and you didn't take it, did you?

Mr. Smith: I didn't think it was that serious, to be honest with you. I didn't get uptight about it. I figured I'd straighten it out when I got back.

Mr. Shibley: Do you consider it serious today?

Mr. Smith: No, I don't consider it that serious today. I figure it's a misquote and I'm

Mr. Shibley: Have you given us the whole of your recollection as to what your secretary had to say to you in the note that she sent along with the article?

Mr. Smith: Yes, I think so.

Mr. Shibley: I have no further questions, Mr. Chairman.

Mr. Bullbrook: I just wanted to point out,

Mr. Chairman: ~~Member of the committee~~ Mr. Bullbrook.

Mr. Bullbrook: Yes, ~~Mr~~ I was able to assist counsel on the date of the order in council appointing this

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C.B.

(Mr. Bullbrook)

select committee immediately, ~~Because~~ the line of questioning that counsel has taken up now was exactly the line of questioning that I intended to take up and pursue further. I want to just record, frankly, that the impression I received yesterday without reservation from the witness in connection with his lack of communication ^A and response to this misquote was because of the fact of the appointment of the select committee.

Mr. Shibley: We are thinking in parallel lines,
Mr. Bullbrook.

Mr. Chairman: YOu have no questions, though,
Mr. Bullbrook?

Mr. Bullbrook: No, I don't

Mr. Chairman: Mr. King?

Mr. King: Well, I think the record will speak for itself, Mr. Chairman. But my recollection was that the evidence ^{THAT} Mr. Smith yesterday ^A about the same point, why ~~he~~ he didn't do anything ^{and he} relayed to select committee, wasn't related at all to the period he was in Rome. ^{As} ~~But~~ I say, we can correct the record on that, but I think it is important that that be kept in mind when the evidence is read.

Mr. Bullbrook: YOu will recall, Mr. King, if I may, you will recall that my comments were, the impression I received from the evidence given in response to my questioning yesterday was that the reason that the witness didn't take issue with the ~~Globe~~ and Mail's alleged misquote was because of the appointment of the select committee. That's all I've said.

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C.B.

Mr. Shibley: I think the record is now clear that that had no part in his decision at least for a period of two weeks after he was alerted to the circumstance of the article; That being the two weeks that he was in Rome following receipt of the clippings.

Mr. Smith: That's right. The day I came back from my holiday I ~~was~~ called Mr. Cronyn and he was away, and I called Mr. King. ~~So I was not in the office~~

H658 to follow

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M.R.

(Mr. Smith)

~~called Mr. Cronyn and he was away and called Mr. King~~

So I decided to get into the matter and I think I probably heard from you people a couple of days later.

Mr. Shibley: Mr. King being your lawyer?

Mr. Smith: Yes.

Mr. Shibley: And Mr. Cronyn being the person from whom you had received a phone call?

Mr. Smith: Mr. Cronyn was the person from whom I had received the phone call.

Mr. Shibley: Well, why would you be calling Mr. Cronyn at that time?

Mr. Smith: Because it looked like I had made those statements and I wanted to call him and tell him I hadn't made those statements.

Mr. Shibley: I see.

Mr. Bullbrook: Well, now this is very important.

Mr. Shibley: Why did you consider it necessary to communicate to Mr. Cronyn the correction of what was reported or attributed to you? —

Mr. Smith: It looked like —

Mr. Shibley: — in the newspaper?

Mr. Smith: It looked like I had said those things and I hadn't said them. And I called him and told him — he wasn't in. I called him to tell him I hadn't said them. If it looks like I said that, it makes me look like a bit of a ~~schmuck~~ schmuck.

Mr. Shibley: You are not really answering the question, ^{was} why Mr. Cronyn ~~is~~ the person to whom you considered it necessary to pursue the matter? /

Mr. Smith: I wasn't pursuing the matter. I called him about the Globe and Mail article where it said somebody from the Ontario Government had called me and threatened me. And I was calling him to tell him that I hadn't said that to the Globe and Mail.

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M.R.

Mr. Shibley: Well, now, I want to be precise as to this → you did not, in fact, talk to Mr. Cronyn at that time?

Mr. Smith: I didn't talk to him for ~~any~~

Mr. Shibley: Was the reason you were calling him because he had previously called you in December of 1972, as you said yesterday?

Mr. Smith: It looked like I was the person named in the Globe and Mail. And it looked like I had told the Globe and Mail that somebody had called me and threatened me.

Mr. Shibley: Yes?

Mr. Smith: And when I called him I told him that I ~~had not said those things~~ and he said, "Well, maybe you are not even the person mentioned in the article." And I said "I don't think I am. I could be but I didn't say those things."

Mr. Shibley: Now, Mr. Smith, I thought you said you didn't reach him?

Mr. Smith: Didn't what?

Mr. Shibley: I thought you said a few minutes ago ~~that~~

Mr. Smith: I didn't reach him, but when I did reach him.

Mr. Shibley: Oh, I see. You ultimately did reach him, did you?

Mr. Smith: Certainly, I reached him.

Mr. Shibley: All right. And you did have a conversation with Mr. Cronyn?

Mr. Smith: Yes.

Mr. Shibley: Would you ~~me~~ please tell us the content of that conversation? What you said to him and what he said to you?

Mr. Smith: Well, it's pretty well. — I met him and I told him about the article → it was a couple of weeks later actually — and

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Mr. Renwick: What date was it?

Mr. Shibley: Just a minute, I'm sorry, Mr. Renwick.

You met him and you told him about the article. What were you going to say?

Mr. Smith: I went to see him and I said, "I guess you have seen the articles in the Globe and Mail and I want you to know that I didn't say those things to the Globe."

Mr. Shibley: Now, let's start back. How was this meeting arranged?

Mr. Smith: It was just a casual meeting.

Mr. Shibley: You mean you didn't call him and say, "I'd like to get together with you?" Or did he call you and say, "I want to get together with you?"

Mr. Smith: Well, actually, I met him up at the cottage and just walked over to his house.

Mr. Shibley: You met him at ^{the cottage} by pre-arrangement?

Mr. Smith: No.

Mr. Shibley: What cottage are you talking about?

Mr. Smith: His cottage, which is next door to

mine.

Mr. Shibley: I see. And when was this?

Mr. Smith: It was a Sunday and it was ~~on~~ I'm not sure, June 3rd or something like that.

Mr. Shibley: June 3rd?

Mr. Smith: June 3rd or 4th, ^{my} something like that.

Mr. Shibley: I see. And you are now talking a matter of less than three weeks ago?

Mr. Smith: Yes. I'm not sure of the date though.

Don't nail me on the date.. I think June 3rd ~~or 4th~~

Mr. Shibley: Was that the first time you had any communication with Mr. Cronyn referable to this article?

Mr. Smith: Yes.

Mr. Shibley: All right. This committee hearing was already under way at that time.

Mr. Smith: Was it?

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Mr. Shibley: Were you not aware of that?

Mr. Smith: Well, I'm just not sure of my dates,
I guess it was, I didn't ~~know~~

Mr. Shibley: Now then, what did you discuss
with Mr. Cronyn on that occasion?

Mr. Smith: Well, that was all I discussed really.

Mr. Shibley: Well, you haven't told us what you
discussed.

Mr. Smith: I told him about the article in the
Globe and I said I did not say that to the Globe. And so
~~that's all~~ I asked him when he had. . . .

H-659 to follow



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10.20 to 10.25
M.T.

H-659-1

(Mr. Smith)

and ~~as I asked him when he had~~ called me and I said I thought it was in January and he said no, it was in December. ~~And~~ I said I talked to the Globe at our office and I told them that I didn't want my name mentioned and I didn't want a political hassle on the thing.

Mr. Shibley: Mr. Smith, are you telling this committee that the topic of conversation was the statement in that article that you had received a communication from someone high in the Progressive Conservative Party and close to the Cabinet? Now stopping there ~~and~~

Mr. Smith: That was the reason I ~~went~~ went over to see him.

Mr. Shibley: Yes; you realized that he was the person intended by that description?

Mr. Smith: I realized that there could be an inference.

Mr. Shibley: Well, when you made the statement to Mr. McAuliffe, it was Mr. Cronyn whom you had in mind?

Mr. Smith: Certainly.

Mr. Shibley: And so you realized that it was ultimately to ~~be~~ be disclosed that he was such person. Is that correct?

Mr. Smith: Right.

Mr. Shibley: And you necessarily wanted to take it up with him, ~~is~~ is that correct?

Mr. Smith: Well, it was a misquote and I wanted to go and see him about it. I thought he might be upset, ~~which~~ if I were him I would be pretty damned upset about it.

Mr. Shibley: All right. If you were him you would have been upset. Was he sufficiently upset to have communicated with you previously?

Mr. Smith: No, he did not communicate with me previously.

Mr. R.G. Hodgson: Yet he is ~~the~~ director of the company?

Mr. Smith: He was away.

Mr. R.G. Hodgson: No, but he is ~~the~~ director of the company.

Mr. Smith: Right.

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M.T.

H-659-2

Mr. Shibley: You are telling us that the only communication following publication of the article between yourself and Mr. Cronyn was the coincidental attendance of yourself at his cottage in early June of this year?

Mr. Smith: That's right.

Mr. Shibley: Notwithstanding it's your view that you expected him to be very upset by the article?

Mr. Smith: Mr. Cronyn was away; he was in Europe.

Mr. Shibley: He was in Europe?

Mr. Smith: Yes, he had been away, I'm not sure where he was, but he was away.

Mr. Shibley: During what period of time?

Mr. Smith: Well, I don't know, really, I think he may have just got back; I didn't

Mr. Bullbrook: Could you pursue with the witness just for a moment why he felt Mr. Cronyn should be so upset in light of the witness's own testimony that he didn't regard it as too important?

Mr. Shibley: Well, Mr. Smith,

Mr. Smith: I didn't say it wasn't important, I said I wasn't going to pursue it in Rome.

Mr. Bullbrook: No, you did make some

Mr. Smith: Yes, I did.

Mr. Bullbrook: Well, if I might, and I don't want to re-record Hansard, again, in evidence just given a short time ago, in counsel's questioning of the witness as to why he didn't take the first opportunity of denial, the witness certainly led me to believe that he didn't really regard it as of such significance to require the first opportunity of denial. Now the witness's evidence is that Mr. Cronyn, he felt, would be very upset about it. We have the fact that Mr. Cronyn is a second person involved, where this witness is the very person who is being misquoted.

Mr. Shibley: Well, Mr. Bullbrook, I think you reach a point in the exchange with a witness, whereat you must reach your own

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M.T.

H-659-3

(Mr. Shibley)

conclusions as to the effect you want to give to his evidence. At the moment, my concern is to make a matter of record what is this witness's position. There will be ~~four additional~~ four additional witnesses today who will testify upon this question and that will be the evidence on one of the basic issues regarding what you will be required to report. At the moment I want to say simply get the man's position as a matter of record. Now I want to take you to that conversation with Mr. Cronyn at the cottage. Did you specifically discuss the matter of a threat?

Mr. Smith: Yes.

Mr. Shibley: Did you discuss ~~the~~ ←

Mr. Smith: I discussed the matter that was in the paper.

Mr. Shibley: Yes.

Mr. Smith: Right.

Mr. Shibley: The only portion of the article that you have disagreed with is the quotation that someone high in the party had threatened you to keep your mouth shut.

Mr. Smith: That's right.

Mr. Shibley: And, of course, at the time of your consultation or discussion with Mr. Cronyn that would therefore be salient to that discussion, would it not?

Mr. Smith: That's right.

Mr. Shibley: ~~And you were concerned, were you not, that...~~

Tape H550 follows

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DT

(Mr. Shibley)

~~that would therefore be allent to that discussion, would it not?~~

Mr. Smith: That's right.

Mr. Shibley: And you were concerned, were you not, that there having been an earlier communication between you and Mr. Cronyn in December, and he being a person filling the description in the article, that ~~that~~ was, so to speak, two steps down the road towards confirming the balance of the quotation, or statement, I should say. Were you not?

Mr. Smith: Yes, ~~I~~ ^{all right} ~~go on~~.

Mr. Shibley: All right. Now, when you got down to discussing what Mr. Cronyn had actually said, did you discuss for example whether he had mentioned to you that you should remember you are doing a large number of government contracts?

Mr. Smith: That he said that to me?

Mr. Shibley: Did he?

Mr. Smith: No.

Mr. Shibley: Did he say to you anything along the lines ~~and~~

Mr. Smith: I wasn't doing a large number of government contracts. I don't think I was doing any at the time.

Mr. Shibley: Did he say to you that you are ~~on~~ the construction business and it isn't going to do you any good?

Mr. Smith: No.

Mr. Shibley: Well, what did he ~~say~~ ^{say}?

Mr. Smith: I ~~was~~ ^{had to} make a decision whether I would talk to the ~~newspaper~~ ^{and} Globe & Mail, didn't I?

Mr. Shibley: Mr. Smith, ~~I want to~~ you told us what was said in December, I want to know now what was said in June.

Mr. Smith: I want to Mr. Cronyn and I told him about the article. I mentioned the article in the Globe and I said "I want you to know that I didn't say that," and there were witnesses present and they can prove I didn't say it, ~~and~~ I said I didn't say that to him and, as a matter of fact, I told him I didn't want him to mention my name as I have to work with

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(Mr. Smith)

governments and it won't do ~~any~~ me any good if my name gets out.
That's what I told the Globe.

Mr. Shibley: You said that to him?

Mr. Smith: Yes, I ~~was~~ told him exactly what
I told McAuliffe.

Mr. Shibley: Yes, and what, if any, contribution did
Mr. Cronyn make to the conversation?

Mr. Smith: Well, I think he said it may not be
brought out and nothing more really.

Mr. Shibley: Did he not say anything?

Mr. Smith: Well, he mentioned the dates that he
had phoned me.

Mr. Shibley: Did he not ~~take any notice of~~
criticize you for not taking ~~any~~

Mr. Smith: No, he didn't.

Mr. Shibley: ~~Following~~ his earlier advice?

Did he not ~~say~~

Mr. Smith: Well, what was his earlier advice?

Mr. Shibley: Did he not comment upon the fact
that he had communicated with you earlier?

Mr. Smith: Yes, he mentioned he had communicated
^{said I}
with me earlier. I ~~thought~~ it was January. ~~He~~

Mr. Shibley: And in that connection, did he have
anything to say to you as to what he had told you earlier, as
compared with what in fact transpired?

Mr. Smith: I told him that as I recalled it he
had called me and I thought he had called from Toronto and he
mentioned that he had called from home; I couldn't recall.
I mentioned that he had called me and told me that the matter
was likely to be brought up in the House and I might be getting
a ~~make~~ phone call from the Globe ^{and} Mail. He never mentioned
government contracts. He has never mentioned government contracts *to me*.

Mr. R. G. Hodgson: Was he concerned about the
welfare of the company?

Mr. Smith: No, I don't think that came up. It did

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DT

(Mr. Smith)

not come up.

Mr. Shibley: Have you, since that meeting in early June, had any further communications with Mr. Cronyn?

Mr. Smith: Yes, we have had an annual Board meeting.

Mr. Shibley: Was this any part of the discussion at that time respecting matters and issues before this proceeding?

Mr. Smith: No.

Mr. Shibley: Was anyone else present at the time of your meeting with Mr. Cronyn at his cottage?

Mr. Smith: Well, I would say no. His wife was present but she was kind of in and out and then my wife came over. It was really quite casual. It wasn't a ~~formal~~

Mr. Shibley: I have no further questions.

Mr. Chairman: Any of the committee members?

Mr. Renwick.

Mr. Renwick: Mr. Smith, was there any discussion of the Globe ^{and} Mail article ~~at~~ the Board meeting of your company?

Mr. Smith: No, I don't think so. I don't recall any. I am just trying to think. Our Board meeting lasts about two hours and I don't recall anything on Hydro.

~~Mr. Renwick: Your Board meeting was quite recently?~~

(H-661 to follow)

June 21, 1973
10:30 - 10:35 am
JLP

~~Mr. Smith: I don't recall anything on Hyde.~~

~~I don't recall anything on Hyde.~~

Mr. Renwick: Your board meeting was quite recently?

Mr. Smith: Our board meeting was two days before I went to Europe, yes.

Mr. Renwick: And you haven't had a board meeting since that time?

Mr. Smith: No, we haven't; we have them once every four months or six months.

Mr. Renwick: When was this annual meeting?

Mr. Smith: It was two days before I went away and I guess I went away about April 25. So actually the article at the board meeting ~~was~~, Mr. Renwick, ~~was~~

Mr. Renwick: Had not been published.

Mr. Smith: ~~hadn't~~ hadn't been published.

Mr. Renwick: Is my recollection correct that you said that in the handwritten note that your secretary sent to you, enclosing the Globe and Mail article of April 30, ~~that~~ she made no reference to that specific paragraph of the story related to the threat?

Mr. Smith: I don't recall, Mr. Renwick. She said the Globe and Mail had misquoted us, ~~and that~~ she may have said in that ~~she~~ ^{had} called McAuliffe and didn't get an answer. I'm not sure.

Mr. Renwick: To the best of your recollection, there was no reference to the paragraph in the article which contained the threat?

Mr. Smith: No, to my recollection, no.

Mr. Renwick: In viewing the article, ~~was~~

Mr. Smith: I think she said that we had been misquoted and she was rather irate about it.

Mr. Renwick: In viewing the article as a whole, there are several references to your company and to you personally, and to officials of your company. But, in the one specific paragraph related to the question of the threat, the paragraph ends, "he insisted he not be identified."

Mr. Smith: Who insisted?

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Mr. Bullbrook: It is in the article.

Mr. Smith: I don't have it in context here.

Mr. Renwick: Have you got Exhibit 172?

Mr. Smith: I have it now. Okay.

Mr. Renwick: This is the paragraph commencing, "A senior executive etc.," the paragraph which contains the threat and ends with the sentence, "He insisted that he not be identified."

Mr. Smith: I insisted -- wait a minute -- ~~_____~~
"I was told to keep my mouth shut or I'd never get another government job," the company official said. He insisted he not be identified. I would say I insisted that the person who phoned me not be identified and I would not tell -- McAuliffe asked me who had phoned me and I would not tell him.

It was a very casual remark I made to McAuliffe and I resent him putting it in.

Mr. Renwick: Are you saying to me that in the sentence, "He insisted he not be identified," that the first "he" refers to you, and the second "he" refers to Mr. Cronyn?

Mr. Smith: I would say that. I did not tell McAuliffe who called me; and it was merely a ~~xxxxx~~ casual remark when he first came to my office.

Mr. Renwick: Let me put the direct question to you. Was there any aspect of your interview with Mr. McAuliffe where you said to Mr. McAuliffe: "I don't want to be quoted about this,"?

Mr. Smith: Well, that could be. When Mr. McAuliffe came to the office, I said the Globe had been getting quite a bit of play. And he said "How come? Why do you say that?" And I said "Because a while back, somebody had phoned me and said that it was coming up in the House". ~~And then~~ I went on to tell McAuliffe that I didn't want my name mentioned in the thing and --

Mr. Renwick: Did you say to Mr. McAuliffe ~~that~~ "whatever I say to you I do not ^{wish} ~~xxx~~ to be identified in any way with your article or did you limit the matter on which you didn't want to be identified,

(Tape H 662 follows)

June 21st, 1973

10.35 - 10.40 am

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AA

(Mr. Renwick)

~~in any way with your article O. did you limit the matter~~
~~on which you didn't want to be identified to this one~~
specific matter?

Mr. Smith: I told them I ~~did~~ did not want to be identified with the article. If I didn't put it straightly, I thought I did, ~~and~~ he said he had all sorts of information from other people and people wouldn't know where he got it.

Mr. Renwick: Mr. Smith, what did you tell Mr. McAuliffe about this call that you had had from the person whom you now ^{have} identified as Mr. ~~City~~ Cronyn.

Mr. Smith: I think I said it a couple of times. I was in a rush. I got into the office about twenty to 12. He had been there for a ~~a~~ couple of hours. I said, "You fellows," the same thing as I just finished saying..... "You fellows have been getting quite a bit of play," ~~said~~ ^{he} is/said "how come?" and I said somebody in the government had called me, ~~and~~ I said, "I guess the government are aware, well aware, of what ~~the~~ you are doing," or something. And he said, "How come?" and I said, "Well, a couple of months ago someone called me and stated that the matter might be coming up in the House and I might be getting a call from ~~you~~ ^{you} ~~there~~."

Mr. Renwick: How long were you in M^r. McAuliffe's company that day?

Mr. Smith: I talked to him ~~for~~ for about 15 or 20 minutes at that time. Then I asked him if he wanted a ride down back to Toronto, as I had to be back by one, so I gave him a ride back to Toronto.

Mr. Renwick: And you were alone together in the plane back to Toronto?

Mr. Smith: Yes. And to the best of my knowledge I did not talk to him about the matter on the plane,

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10.35 - 10.40 am

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AA

(Mr. Renwick)

Mr. Renwick: What you are saying then, as I understand it, is that you did not insist that you not be identified in the Globe article, but that Mr. Cronyn had insisted to you that he not be identified.

Mr. Smith: No, Mr. Cronyn had not insisted that at all. I did not tell him who called me, and he asked me who called me. In the article, he said he had all sorts of information from other developers and other sources, and I asked him not to mention our name or my name and he said he wouldn't and that is why we were annoyed.

Mr. Renwick: Mr. Smith, would you just help me. When I read the sentence, "He insisted he not be identified," I read that to mean Mr. Smith insisted that he, Mr. Smith, be not identified ^{about} that particular aspect of the conversation, and that is the way I read the story.

Mr. Smith: I didn't write the article.

Mr. Renwick: It is open, I think, to ~~three~~ three interpretations. The first one which I made, the one which I made just a moment ago, the rumour in the ~~back~~ back of the room indicated that that wasn't the correct interpretation, that is, that Mr. Cronyn did not insist that he, Mr. Cronyn, be not identified.

Mr. Smith: No, Mr. Cronyn ^{was} merely a ~~casual~~ ~~casual~~ conversation four months ago to me. ~~It was merely a casual conversation. He called me and said I would be getting a call from the Globe and Mail. If a~~ ~~guy says, "Don't mention my name,"~~ There is nothing wrong with what he *did*.

Mr. Renwick: But that interpretation is not the correct ~~one~~.

Mr. Shibley: Mr. Renwick, I might shorten this by

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H662 - 3 AA

(Mr. Shibley)

telling you that the evidence is ~~consistent~~ consistent that the person whom Mr. Smith requested not be identified was Mr. Smith himself and it was not related to Mr. Cronyn. The evidence of all ~~witnesses~~ witnesses, I think, is consistent as to that.

Mr. Renwick: Well, let me ask the other question. Was your ~~insistence~~ insistence that you not be identified related to one specific ~~matter~~ matter or to the whole of the conversation or interview that you had with Mr. McAuliffe?

Mr. Smith: The whole of the interview I had with Mr. McAuliffe.

Mr. Renwick: And yet when you received the

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10:40-10:45 am
PLG

(Mr. Renwick)

~~and, I think, from the article in Rome, and for a period~~
of time after that, you made no objection whatsoever to the fact that throughout the article you are referred to in substantial detail, and indeed, I think it is fair to say that on

Mr. ~~Smith~~ Smith: I am not sure how much good it does to do that, and that is why I decided against it.

Mr. Renwick: May I ask two or three other questions? Who are the other directors of ~~your~~ your company, Mr. Smith?

Mr. ~~Smith~~ Smith: A chap named R. M. Ivey,

Mr. Renwick: And his principal occupation, Mr. Smith?

Mr. ~~Smith~~ Smith: He is a ~~lawyer~~ lawyer in ~~London~~ London.

Mr. Renwick: In London.

Mr. ~~Smith~~ Smith: Yes. Mr. Hemphill -- Howard Hemphill -- is the President of Imperial Furniture Company; F. W. P. Jones is a professor at the University of Western Ontario; and George Robertson is a QC from Halifax; and Vera Bayley, our Vice-President; and myself.

Mr. Renwick: Mr. Smith, as I understand it from your evidence, no other

Mr. ~~Smith~~ Smith: And Mr. Cronyn, sorry.

Mr. Renwick: ~~Is~~ no director of the company raised with you any matter related to the Globe and Mail articles at any time, apart from the discussions you had with Mr. Cronyn?

Mr. ~~Smith~~ Smith: That's right. One director called me and told me he thought it was a good idea.

Mr. Shibley: He thought it was a good idea?

Mr. Deans: You see, that is the problem Mr. Smith.

Mr. ~~Smith~~ Smith: That is no problem, it was just a casual conversation. I bumped into one of the directors and he said, "I have been reading it in the Globe and Mail" and he said, "I think you are right."

Mr. Renwick: What occasion would this have been, when you say again that this was a casual conversation?

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10:40-10:45 a.m.
PLG

H 663-2

Mr. J. Smith: I just bumped into Fred Jones on the street once and he said,
"I have been reading about the Hydro and I think you are right."
That is all it was. It wasn't a meeting, it wasn't a phone call, it wasn't anything.

Mr. Renwick: That "I think you are right" about what Mr. Smith?

Mr. J. Smith: In pursuing Hydro, I guess.

Mr. Chairman: Any other questions?

Mr. Renwick: Yes, I have got two or three other more or less unrelated ones.

When you were referring to the specifications, Mr. Smith, you stated ^{that} sort of one-page specifications ^{were} all that were available to you.

Mr. J. Smith: That's right.

Mr. Renwick: Now the prior evidence appears that at the time these specifications were made available they were made available verbally to the various developers. How was the communication of the specifications to you made?

Mr. J. Smith: It was made in Mr. Candy's office on January 10 and I made some rough notes on a piece of paper, and Mr. Simms or Mr. Stewart, I am not sure which, I think both of them, made some rough notes, ~~and~~ we brought them back to the office and typed them up and that is what you have there.

Mr. Renwick: Was Mr. Candy giving you some form of consecutive presentation, or was this a conversation from which you made the notes that you felt were related to the building?

Mr. J. Smith: I imagine he read them off a piece of paper and said, "We want this and this" and we wrote everything down as he said it.

Mr. Renwick: But you weren't handed anything?

Mr. J. Smith: No we were not handed anything.

Mr. Renwick: Exhibit number 67 has Appendix A, six pages of specifications which are headed:

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(Mr. Renwick)

"The following are general specifications outlined to the developers for the preparation of their proposals."

Now I know that that wasn't given to anybody until February 10 in that form, but were you~~+~~

Tape H 664 follows

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R.E.S.

H-664 - 1

(~~Mr. Renwick~~)

...
~~know that that wasn't given to anybody until February 10 in that form.~~

Mr. Smith: ^{What} ~~that~~ page is that, Mr. Renwick?

MR. Renwick: It is appendix "A" to exhibit 67.

Mr. Smith: All right, go on

Mr. Renwick: There are about six -- I'm not going through it in detail -- I'll just say there are six pages there of specifications ^{which} ~~that~~ the evidence would indicate ~~we~~ ~~we~~ were given verbally to each of the developers.

I'm only concerned because you kept referring to sort of one page of information from which you prepared your proposal.

Mr. Smith: The six pages are a specification ~~of~~ ~~what~~ it looks like -- I'm not sure if we were given all this in February or not. NOW, I just kept it. I have what we were given in February and you can verify it.

One or two pages were the notes I made and we typed them up and I think they are an exhibit ^{They} ~~and~~ I say pretty well what are on the six pages and what they say is --, need~~less~~ to say, I am not going to write down the location, ~~at~~ when he tells me the location, ~~so~~ ^{Market value}, I ~~just~~ put \$7 million; I just had ~~we~~ \$7 million, so I wrote it out in two pages myself.

Mr. Renwick: ~~And~~ Mr. Shibley, perhaps you'd help me with this next part about it. I know that the device, the ingenious method of pro-rating ^{is} ~~originated~~ with Mr. Dean? ~~Or~~ Mink?

MR. ~~Smith~~: Mr. Mink.

Mr. Renwick: With Mr. Mink, ~~and~~ I know that Mr. Smith and other witnesses have more or less indicated that they bore no ~~we~~ that Mr. Smith ^{indicated} ~~indicated~~ that he didn't think it was very valid and others have sort of indicated, well, it's Mr. Mink's basis. Do you intend to pursue with any of the developers the question of how you go about comparing one proposal with another proposal, or at what point do you think that that would be relevant?

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Mr. Shibley: Well, Mr. Renwick, I asked this witness yesterday whether he could ~~make~~ make comment respecting the application of the pro-rating process and

Mr. Renwick: I recall that.

Mr. Shibley: ~~As~~ he, in very summary form, indicated that -- I think it's fair to summarize his evidence in terms of, he didn't think it was a valid premise at all.

MR. Renwick: Yes.

Mr. Shibley: He couldn't understand it himself. I, myself, am waiting upon Mr. Mink to give an explanation. To this point ~~in~~ time I haven't run into anyone. I haven't interviewed Mr. Mink, I'll tell you.

Mr. Renwick: ~~No~~ No.

MR. Shibley: I haven't run into anyone who can make an explanation. The explanation Mr. Candy gave was that they wanted a \$34 value building and transposed the figures on the basis that if everybody had ~~tendered~~ ^{tendered} on the basis of being obliged to build a \$34-per-square-foot building, these would be the figures. I have got Mr. ~~Anson~~ ^{Anson} Cartwright working on it and can assist you in this respect. It didn't work out arithmetically. They ran it through their idea of forms of computation, none of which worked to the figures that were in the schedules. ^{On} Consultation with financial people in Hydro, ~~as~~ they have made it clear that it worked out, on a basis that they will explain, to nine cents per ~~square foot~~ dollar per square foot in the rental rate, incorporating it -- it was not a matter of simple division of so many square feet times \$34 divided by so many years, but rather incorporating factors such as interest and present values. But they worked to a base figure of nine cents per square foot per year.

(Tape H-665 - 1 follows)

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B.A.

H-665-1

(Mr. Shibley)

~~these figures of 9 cents per square foot per year, per million~~
~~per~~
dollar per square foot of construction, so that if the
disparity was four, it is four times nine is 36, and if you
compare the figures in the schedule you will see that that is
the factor that was applied. Now, as to the validity of
adopting that factor, we ourselves ^{and} and when I say we,
Mr. Anson-Cartwright is still working on that, and will have
his comments to make and I will expect Hydro will stand up and
be counted as to the same item. That is a financial question
and I suggest we leave it until then.

Mr. Renwick: That's fine.

Mr. Shibley: You can't work it simply; you can't
work it by simple division.

Mr. Renwick: No, I wasn't thinking on embarking
on the financial aspect of the pro-rating but it seemed to
me that there are certain ^{active} ~~qualitative~~ factors that are not
~~pure~~ mathematical or financial that are involved in any ~~one~~
method of comparison of proposals.

Mr. Shibley: Yes, I understand, Mr. Renwick, and
I ^{THINK} ~~understand~~ that what it really comes down to again is this,
I don't think this committee is going to get any black-and-
white answer from a particular witness that it can seize upon
and say, "Ah, that's the answer". I think ^{what} you are going to
be forced to do is this; Mr. Candy has got in that witness box and
said: ~~that~~ ^{"I"} in my opinion we could not get a building of the
quality we required unless we expended \$34, and anyone who
submitted the proposal based on an expenditure of less than
that, ^{WE VIEWED TO} ~~would~~ be underestimating the cost and we intended a contract
wherein ~~that~~ ^{WE} would stipulate for an expenditure of that amount of
money." It is a curious approach to insist that more money be
spent, ~~but~~ but it may not be unreasonable in terms of whether they

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want a building of very high quality. Now, they have gone on and said that as a hedge against not getting a building of that ~~best~~ quality, they build^t into the contract, a provision for a diminution in rental on a formula basis, using phraseology that is still of concern to me because^{au} it talks~~sa~~ of an appraised value of the building as at time of completion, and I am waiting to hear whether Canada Square's interpretation of that provision of the contract is consistent with what Mr. Candy has explained to be the understanding of Hydro in that connection. Also, Mr. McCallum on the same question.

I think when the evidence is all in, this committee will have to make a decision as to whether the rationale, and as you know again, Mr. Nastich said in a variety of memoranda^a "We must have reasons for doing it; ~~is~~^{THIS} is a valid premise?" There was the memorandum of July 6, 1972, from Dean to Nastich, which was tendered as an analysis of the validity of that process. Whether you consider it sufficient explanation or accept it in the face of evidence such as Mr. Smith is giving, saying he can't understand it, he has never seen it done, there is no rhyme nor reason to it in his thinking, that is the conflict of testimony, so to speak[;] ~~upon~~ upon which a decision or finding of this committee will be made, or be implicit in your overall findings. I don't think you are ever going to find somebody who is going to say that the pro-rating process, as such, is a common, circumstance, or usual, or whether it is even appropriate. Hydro people appear to ^{HAVE} consider^{ED} it appropriate, they reached that conclusion. ~~Now this is reached,~~ the formula itself will be developed. They take one posture, people such as Mr. Smith and I think others, are going to take a different posture; and then you must reach your

(Tape H665 follows)



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(Mr. Shibley)

posture, people such as Mr. Smith and I think others are going to take a different posture. Then you must reach your decision balancing that evidence.

Mr. Renwick: Mr. Chairman, I only have one other question which I omitted to ask Mr. Smith when I was speaking about the directors of the company. Is there any ^(single) shareholder or group of shareholders who in fact control your company?

Mr. Smith: I control it.

Mr. Renwick: You control it yourself? Thank you.

Mr. Smith: There's one other shareholder but I own 80 per cent of the stock.

Mr. Renwick: Thank you.

Mr. Chairman: Mr. Gaunt.

Mr. Gaunt: Mr. Chairman, I would like to ask Mr. Smith some questions along the lines as to whether he has tendered on any Hydro business since January 24, 1972? You may recall that is the date you submitted the proposal to Hydro on the head office.

Mr. Smith: Yes, we quoted on a contract, I believe, Mr. Gaunt, in May. I don't know what it is was for and I don't know the size of it. It was a facility, I think, in Toronto and I am not sure what it was for and I don't do the tendering in our company. I do know that we quoted on ^(a job) in May or June of last year and I would think it might have been in the \$400,000 or \$500,000 mark. I stand to be corrected but I do know that we did quote on one job and I believe that was around the time and that was the size. It might have been in the west end, to the best of my knowledge.

Mr. Gaunt: That's May, 1972?

Mr. Smith: Yes. That's just what I think.

Mr. Gaunt: And I presume that you didn't get that job?

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Mr. Smith: No, we did not. It was a tendered contract and we weren't low bidder.

Mr. Gaunt: Have you ever been in touch with any of the senior personnel in Hydro or with any of the commissioners or with the chairman of the commissioner with respect to the possibility of obtaining Hydro work since January 24, 1972?

Mr. Smith: No. Only what has come out in evidence here pursuant to this building.

Mr. Gaunt: Yes, ~~I do~~.

Mr. Smith: Only what has already been given. Nothing else.

Mr. Gaunt: I had in mind other contracts.

Mr. Smith: ~~Oh~~ the answer is no.

Mr. Chairman: Did you indicate another question, Mr. Bullbrook? I don't want to encourage you but ~~yes~~

Mr. Bullbrook: I ^{Rave} ~~had~~ much more than one question.

Mr. Chairman: All right. Fire away.

Mr. Bullbrook: I just want to clarify one thing. You said that in connection with the job you didn't get at Hydro you weren't the low bidder and therefore you weren't successful. May we assume from that that where you are a successful tenderer, in connection with Mr. Allan's question yesterday, you have always been the lowest bidder?

Mr. Smith: Yes.

Mr. Bullbrook: I want to clarify, if Mr. Shibley could help me, in coming back and during the course of examination by Mr. Renwick in connection with the sentence, "He insisted he not be identified." Now Mr. Shibley do I understand that there is uniformity of evidence and will be that ^{both 'Ro's'} ~~they~~ refer to Mr. Smith?

Mr. Shibley: Yes.


Mr. Bullbrook: I thought that in response to a question from Mr. Renwick that Mr. Smith said he believed the ~~the~~ second "he" to refer to Mr. Cronyn.

Mr. Shibley: No.

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Mr. Renwick: That is a correct recollection of

Mr. Smith's response.

Mr. Shipley: I have to tell you. It took 30 seconds 

Mr. Smith: It's a complicated

Mr. Shipley: ^(let's bring it to an end) ~~It's~~ immediately. I immediately

conferred with Mr. McAuliffe and asked him what his recollection was and it accords with the proposition that the "he" referred to is Mr. Smith and Mr. Smith alone. That will be Mr. McAuliffe's evidence. There is uniformity in that respect. If Mr. Smith has indicated anything different then I would have to take it, by reason of what Mr. McAuliffe has said to me, that Mr. Smith has unintentionally misstated the fact. It's uniform that the request

H-667 follows

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(Mr. Shibley)

~~misstated the fact that it is uniform that the request that~~
there be no disclosure of identity related to Mr. Smith and
Mr. Smith alone.

Chairman:

Mr. ~~Cronyn~~ Yes, although I think in his testimony
this morning Mr. Smith indicated that it could refer to
Mr. Cronyn. He is interpreting the ~~quote of McAuliffe's~~
~~words of McAuliffe's~~

Mr. Smith: ~~What~~ It is confusing.

Mr. Bullbrook: Well, I recognize it is confusing and
that is why I brought it up again.

Mr. Smith: I didn't mention who had called me, so there
is no way I could say that he not be identified. Mr.
McAuliffe asked me who phoned me and I wouldn't tell him.

Mr. Bullbrook: But I want to tell you, Mr. Smith,
that that is exactly what was in my mind ~~because~~ your evidence
has been that you never did identify to Mr. McAuliffe, Mr. Cronyn.

Mr. Smith: I never did.

Mr. Bullbrook: So when you responded to Mr. Renwick
that the second "he" was Mr. Cronyn I just didn't follow it, and
so it must have been an inadvertent response; and I take it
as such. The two "he's" must have referred to you, and we are
all agreed, but I think my colleague, Mr. Renwick, will recall
that the ev^{"he"}idence was that the second ^{that} was Mr. Cronyn, it must
have been him.

Now, I want to if I can, and you must bear with me,
because I want to point out if I may, sir, and if you will
permit me, Mr. Chairman, this particular situation, in my
opinion as a politician, ~~was~~ as I said yesterday ^{that} pivotal to
the very convening of this committee.

Mr. Renwick: No question.

Mr. Bullbrook: There is no question about it and so
I want to understand fully the situation in connection with
your interview and discussions with Mr. McAuliffe, and if I

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(Mr. Bullbrook):'

can read again.* This article says, "A senior executive of one of the three unsuccessful firms that bid on the project said he was called several weeks ago by a ~~xxxx~~ source close to the Ontario cabinet and high in the Progressive Conservative Party and told the Globe and Mail was investigating".

Now, is that a correct statement to the best of your recollection now of information that you conveyed to Mr. McAuliffe?

Mr. Smith: I am sorry. I just want to look up one word.

"A senior executive."

~~Smith or not it is a reasonable statement?~~

Mr. Bullbrook: Yes. So that a reasonable person ----
whether

Mr. Smith: I am not sure ~~what~~ I said several weeks,
^{I said} but quite a while ago anyway.

Mr. Bullbrook: Yes. Well, this is the thing I want clarified. I don't want there to be any confusion as to the use of direct words. I am interested in the interview and the conversations that you had with Mr. McAuliffe as to whether comments made by you -----

Mr. Smith: It was a very casual conversation and I

Mr. Bullbrook: I have said this to several witnesses before, and I say it to you, that I don't expect you for one moment to be able to recall the exact conversation that you had with Mr. McAuliffe. What I am interested in, and I think members of the committee would be interested in, is the general discussion, not necessarily the words themselves, so that we could assume that Mr. McAuliffe as a reasonable man could either infer or take directly from what you said that a person whom you regarded as close to the Ontario cabinet and high in the Progressive Conservative Party had communicated with you and told you that the Globe and Mail was investigating. I think that is your evidence?

Mr. Smith: Yes.

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Mr. Bullbrook: So that basically the one thing that is wrong in this particular statement is the direct quotation, "I was told to keep my mouth shut or I would never get another government job". I want to understand: First of all, your evidence is that you never did make such a statement that is herein quoted?

Mr. Smith: That is right.

Mr. Bullbrook: And secondly -----

Tape H - 668 follows

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M.T.

H-668-1

(Mr. Bullbrook)

~~even did make such a statement that he was inquired.~~

~~Mr. Smith: That's right.~~

Mr. Bullbrook: And, secondly, your evidence is, as I understand it to be, that you never did, during the course of any discussion during the interview or subsequently in the company of Mr. McAuliffe, say anything to him that would lead him, as a reasonable man, to infer or to take directly from what you said that you were told to keep your mouth shut or that you would never get another government job.

Mr. Smith: Well, I think I have said it many times, and I will say it again, I was never told to keep my mouth shut and I was never told I would get another government contract, and as I said yesterday, I don't believe anybody ~~would~~ would ever say that and I don't believe anybody would act that way.

Mr. Bullbrook: Well, you have to bear with —

Mr. Smith: Now, in a casual conversation, and I'll take for instance, to what people print, but ~~they~~ might say they used my name in the article, I might have problems getting work or ~~they~~ I might say, ^{"Gees"} they'd knock my head in if this ever got out, or something like that. ~~They~~ might casually have said that; I don't recall. I told them I don't want my name used and I might have said, you know, "If you use my name, gees, it could cause me a problem." But I did not tell them that I was told to keep my mouth shut or I wouldn't get any more contracts.

Mr. Bullbrook: Well, that's really the purpose of my examination —

Mr. Smith: Mr. Renwick said yesterday, could I have had a cautionary note. I could have had a cautionary note and it ~~was~~ could have said ^{"Be"} careful when you are talking to the press; but Mr. Cronyn did not say what's in that article, ^{"He"} he never inferred it, and he never —

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H-668-2

Mr. Bullbrook: I just want you to know, sir, that your evidence will be evaluated ~~and~~ I am not now asking you a question about what Mr. Cronyn said to you. You have made your evidence such that it is without equivocation or reservation that Mr. Cronyn never, either directly or ~~ind~~ inferentially, conveyed that impression to you. I am very much interested in the impression that you might have conveyed to ^{the} ~~McAuliffe~~, that's what I am interested in, and your counsel now wants to speak.

Mr. Chairman: Mr. King.

Mr. King: Mr. Chairman, I don't want to make any comment ~~xxxxxx~~ objecting to the rights of the committee to ask any questions they see fit, but surely there must come a time in any process of examination when the witness has been exposed to all the questioning that he can possibly be exposed to ~~at~~ a given point, ~~and~~ beyond that, does it not then become perhaps bordering on badgering? I say that advisedly and I know how important this is. But I ~~think~~ think the committee should keep that in mind. Now, this witness was exposed to the same type of questioning on this very same point at length yesterday afternoon and again this morning from various sources, ~~and~~ I thought perhaps there was no need, but I have a personal interest as counsel here, ~~and~~ I have refrained from making this comment but I feel I must now.

Mr. Chairman: Mr. King, your objection is in my mind and I am going ~~to~~ to let Mr. Bullbrook proceed because this is one of the difficulties when we are working with a committee as large as this. Each member of the committee may have his own way of putting the question, and his own answer that he wants to bring out. I think Mr. Bullbrook did do some examining on this the other day as well. Certainly Mr. Renwick did. But keeping what Mr. King has said in mind —

Mr. Bullbrook: Well, I do want to speak to it, if I may. I am most appreciative of the position of Mr. King and the position of the witness. May I say that the interrogation that I am presently

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H-668-3

(Mr. Bullbrook)

undertaking, I think, in style and content is restrained. May I say to you also, Mr. Chairman, through you to Mr. King, may I point out to you, sir, that the evidence of Mr. Smith yesterday in connection with his thoughts in Rome has completely changed. So ~~that~~ I don't think what I am doing is badgering. Thirdly, it's absolutely a pivotal point in our deliberations, that we're upon right now. And I hope other members of committee feel as I do.

~~Mr. Bullbrook: Mr. Chairman, I would like to elaborate myself with Mr. Bullbrook about this...~~

Tape H-669 follows

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V.H.

(Mr. Bullbrook)

~~I hope other members of committee feel as I do.~~

Mr. Renwick: Mr. Chairman, I would like to associate myself with Mr. Bullbrook about this, and I appreciate Mr. King's legitimate concern about the evidence which is being given, but in the context in which this committee ^{WAS} ~~was~~ set up there is absolutely no question in my mind that we would not be sitting here today had there not appeared in the Globe and Mail article that particular paragraph. ^{IT'S} ~~Just~~ about that simple, and therefore I am anxious that we not in any sense be interpreted as either badgering or har~~ass~~ing Mr. Smith. ^{WHAT} ~~the~~ members of the committee have got to decide upon ^{IS} ~~the~~ key part of the whole reason for the existence of the committee, and I would ask Mr. King ^{AND} ~~as~~ Mr. Smith to bear with us as we try to solve one of the major questions that we have to make a conclusion about.

~~Mr. Shibley~~
Mr. Shibley: There is, Mr. Chairman, the additional circumstance that we are now confronted with a contradiction of evidence, whereas if the evidence of this witness had been consistent with the reported statement in the newspaper article, what might be going on now might be characterized as badgering. ^{Because of} ~~the inconsistency of what was reported or~~ ^{attributed} ~~as attributed~~ to him and as evidence I think it is extremely important that his evidence be as complete as possible in this area so as to enable the committee to compare it with the evidence of other witnesses yet to come.

Mr. Chairman: Mr. Walker.

Mr. Walker: Mr. Chairman, I associate myself with my brethren in law. It appears to me that is the most important point of the inquiry that we have seen to date and in my estimation, Mr. Bullbrook should continue. I think he will keep in mind the question

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(Mr. Walker)

of badgering, as will the rest of us, but certainly it is an important point and he should be allowed to continue on it.

Mr. Chairman: Mr. Bullbrook, as I suggested, just keep that in mind.

Mr. Bullbrook: I will keep it in mind. Now I just want to again reiterate - or, I am sorry, want to reiterate this: I want to point out to you, Mr. Smith, that your evidence has ^{BEEN} without equivocation, that Mr. Cronyn did not at any time either directly or inferentially lead you to ^{THE IMPRESSION} ~~the impression~~ that might lead to this quote. I am really interested, sir, in your recollections as to your discussions with Mr. McAuliffe. Now again, your evidence has been, again without equivocation, that that was never said, those words were never said by you to Mr. McAuliffe. Is there anything, to the best of your recollection, that you might have said to Mr. McAuliffe that he as a reasonable person might ~~infer~~ ^{infer} that would lead him to such a quotation?

Mr. Smith: Sir, he might - I don't recall. It was a hurried meeting, as I say, it took about 20 minutes and I had to go to Toronto. I was in and out of my office. He was in Dave Grant's office. I was talking to him, and without repeating myself, I told him, ^{I am} I guess, repeating myself, I told him that the government knew that they were investigating because I had had this call and the call told me that it was coming up in the House and I might be getting a call from the Globe.

Mr. Bullbrook: May I help you, Mr. Smith?

Mr. Smith: Wait a minute. I think at the outset we told Mr. McAuliffe we didn't want our name mentioned because it is not going to do your name any good to get bandied around in an investigation or a scandal or whatever it is. So we said we don't want our name mentioned as this could do us harm. I am not ^{I DIDN'T SAY} saying that this could -- I would

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11.15 - 11.20 am

H 670 - 1

AA

(Mr. Smith)

~~Mr. Smith: I would~~ say, probably say, that it would do us harm because I don't really think, if I was a little bitter, I wouldn't get a job ~~and~~ I just said I didn't want our name mentioned, the company's name or my name ~~and~~ that's in the 20 minutes I reviewed the thing with him and took off and came to Toronto on some other ~~business~~ business. I think you might say, "Gee, if our name get's out it is going to hurt us," but I never said I was threatened. I wasn't threatened. If he gathered I said I ~~was~~ was threatened, well, that ~~is~~ is his problem because I was not threatened by anybody and I have never been threatened in my life by ~~anybody~~ anyone.

Mr. Bullbrook: I didn't use the word "threatened" with you because the article ~~says~~

Mr. Smith: ~~Never been~~ threatened with loss of business or anything.

Mr. Bullbrook: ~~Yes~~, the article never does use the word "threatened," itself.

Mr. Smith: Well, I was never told to keep my mouth shut.

Mr. Bullbrook: On the flight back to Toronto, was there any further discussion pursuant to the interview that Mr. McAuliffe was having and relating to the matters in this article?

Mr. Smith: Not that I recall, Mr. Bullbrook. I think we both just sat and read ~~a~~ magazine and got off the plane.

Mr. Shibley: Mr. ~~Chairman~~ Chairman, I have a few questions of my own. Mr. Smith, do I take it that there was only one ~~exchange~~ exchange between yourself and Mr. McAuliffe wherein he pressed the point your being threatened or was there ~~any~~

Mr. Smith: ~~He~~ didn't press that point. ~~I just mentioned it~~ I was just a casual remark which I feel he has blown up.

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11.15 - 11.20 am

H 670 - 2

AA

(Mr. Shibley)

Mr. Shibley: Did Mr. McAuliffe come back to this area of your conversation with him more than once?

Mr. Smith: Not that I recall, Mr. Shibley.

Mr. Shibley: He might have?

Mr. Smith: He might have; not that I recall.

Mr. Shibley: Is it fair to say that Mr. McAuliffe, in his comments and questions to you, made it clear that he considered it a matter of prime importance that you had received this communication from someone high in the Progressive Conservative party?

Mr. Smith: Yes, he might have done that. He wanted me to tell him who it was and I wouldn't tell him.

Mr. Shibley: And is it fair ^{to figure} ~~to believe~~ he

Mr. Smith: I ~~really~~ wanted that for sensationalism and that is why I wouldn't tell him.

Mr. Shibley: Is it fair to say that because he considered it of prime importance that he would attempt to elicit from you as complete and precise a statement of what ~~transpired~~ transpired as was possible to obtain?

Mr. ~~Mr.~~ Smith: I don't recall. I said I mentioned ^{it} at the beginning when he came in and now it seems to me that one of the last things he said ~~was~~ "Will you tell me who the person who called you was?" And then he started ~~listing~~ naming names and I wouldn't tell him that either.

Mr. Shibley: But he was concentrating on this particular topic of the interview?

Mr. Smith: I wouldn't say so, ~~but~~ he did mention it but I wouldn't say he was concentrating on it.

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H 670 - 3 AA

Mr. Shibley: But it was a salient point of the interview?

Mr. Smith: Pardon?

Mr. Shibley: It ~~was~~^(was) one ~~of~~ of the salient points of the interview? /XMA/1

Mr. Smith: It wasn't meant to be.

Mr. Shibley: It wasn't meant to be by whom?

Mr. Smith: I didn't think we dwelt on it that much.

Mr. Shibley: I only ask you the question; did he come back at it more than once?

Mr. Smith: I think maybe, before he ~~got there~~^{left/returned (?)} he might have come back and said, "~~who~~ Who was it?" and I wouldn't tell him. I was getting a little annoyed at that.

Mr. Shibley: You said you didn't discuss ^(it) with him on the ~~air~~ airplane. Was the reference to a source close to the Cabinet, a person high in the Progressive Conservative party, made during the air flight back from London to Toronto?

Mr. Smith: Well, as I said, I don't recall, Mr. Shibley. ~~I might have been asked that~~

Mr. Shibley: Might it have been said then?

Mr. Smith: It could possibly have been. I don't recall any conversation on the plane.

Mr. Shibley: Did Mr. McAuliffe, so to speak, resurrect the subject again towards the latter part of ~~the~~ that flight?

H 671 - 1 follows

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11.20 to 11.25 am
fvk

(Mr. Smith)

...I don't remember.

Mr. Shibley: You don't remember that?

Mr. Smith: No. I would say no, but if he says he did, maybe he did. I don't remember.

Mr. Shibley: Yesterday you mentioned ^{when} I examined you with respect to earlier conversation you had had with Mr. Manthorpe in November, 1972. Do you remember that?

Mr. Smith: I don't recall the date but that ~~should~~ should be about the time.

Mr. Shibley: In the course of that telephone conversation wherein, I understand, you did not identify yourself.

Mr. Smith: That's true.

Mr. Shibley: You remained ~~was~~ anonymous at the time you made the call and provided the information within that telephone call?

Mr. Smith: Yes.

Mr. Shibley: Did you say to Mr. Manthorpe, in the course of that ~~was~~ telephone interview, that you had received a communication from someone close to cabinet threatening you to be quiet or else you would not receive any government contracts?

Mr. Smith: No, I don't think so.

Mr. Shibley: Mr. Smith ¹⁹⁷² ~~has indicated~~ ¹⁹⁷² ~~as an~~ ¹⁹⁷² ~~important~~ ¹⁹⁷² ~~matter~~, an answer: "No, I don't think so" isn't -

Mr. Smith: I don't recall my conversation. I don't recall what I said.

Mr. Shibley: What I am worrying about, Mr. Smith is whether the terms threatened emanated from a combination of information provided by you first, to Mr. Manthorpe in an anonymous telephone communication and later in the personal interview with Mr. McAuliffe. Did you tell Mr. Manthorpe, during the course of your anonymous telephone communication that you had been threatened?

Mr. Smith: I would say no.

Mr. R.G. Hodgson: Would you ask the witness, Mr. Shibley, if he used the words: "I was told to keep my mouth shut?"

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Mr. Shibley: All right. ~~Was~~ Did you tell Mr. Manthorpe, in the course of the anonymous telephone interview, that you were told to keep your mouth shut?

Mr. Smith: I don't recall, but I may have.

Mr. Shibley: You may have. If you may have ~~said~~ said that to him, did you go on and tell him that the reason you were told to keep your ~~mouth~~ mouth shut was that, if you didn't, you might not get any more government jobs?

Mr. Smith: Wait a minute. I was never told to keep my mouth shut. I want ~~to~~ to make that clear.

Mr. Shibley: But you may have told Mr. Manthorpe that that was your interpretation of the communication to you.

Mr. Smith: No, in no way.

Mr. Shibley: What did you mean when ~~was~~ you said -

Mr. Smith: I don't remember saying that to Mr. Manthorpe.

Mr. Shibley: You don't remember it, but you may have said it.

Mr. Smith: I don't recall ~~my~~ my conversation and I'm not sure what you're trying to imply.

Mr. Shibley: I'm only trying to establish your evidence, Mr. Smith, in order to compare it with the evidence of Mr. Manthorpe and Mr. McAuliffe. I want to be clear as to what you say you did say to Mr. Manthorpe.

Mr. Smith: All right. Let's put it another way. What if somebody said: "Don't say ~~anything~~ anything," or what if somebody said: "Be careful what you say", then I come out and ~~say~~ say: "I don't recall saying I was told to keep my ~~mouth~~ mouth shut." I'm sorry you're going to have to -

Mr. Shibley: The same concept might be communicated in a variety of terms. Is that what you're saying?

Mr. Smith: Somebody might say: "Be careful what you say", or "Don't ~~say~~ say too much" or you're told to ~~keep~~ keep your mouth shut. I was never told to keep my mouth shut at any time.

Mr. Shibley: Were you told anything by Mr. Cronyn ~~in~~ which was to the effect that you should keep your mouth shut?

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Mr. Smith: No.

Mr. Shibley: Did you say to Mr. Manthorpe which would permit him to interpret you as saying you had been advised to keep your mouth shut.

Mr. Smith: ~~xxxxxx~~ No. He may have gathered an inference. I was never told to keep my mouth shut and I don't think I told ~~anybody~~ anybody that I was told that.

~~xxxxxxSmithxxxxxxxxxx~~

(Tape H 672 follows)

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11:25 - 11:30 am

C.B.

(Mr. Smith)

~~I was never told to keep my mouth shut and I don't think I told anybody that I was told that.~~

Mr. Shibley: Mr. Smith, at the time you called Mr. Manthorpe you were a very angry person, were you not?

Mr. Smith: I wasn't happy.

Mr. Shibley: Yes, you just received word that Hydro had let the contract to Canada Square, Is that right?

Mr. Smith: Right.

Mr. Shibley: And you considered you hadn't had a fair shake?

Mr. Smith: Right.

Mr. Shibley: And the reason you were calling Mr. Manthorpe is that he was just currently on another type of investigative reporting process. Isn't that so?

Mr. Smith: Yes, certainly.

Mr. Shibley: And you called him in order to encourage him to pursue an investigative report of the Hydro contract, did you not?

Mr. Smith: Sure.

Mr. Shibley: ~~Mr.~~ That was the whole purpose of the communication?

Mr. Smith: Sure, sure, Okay, go on.

Mr. Shibley: Is that right?

Mr. Smith: Right.

Mr. Shibley: And when you called him you were telling him everything you knew in terms to encourage him to make that type of investigation, did you not?

Mr. Smith: Oh, sure, my mind was wandering a bit there.

Mr. Shibley: The ^{whole} ~~sole~~ purpose of your communication

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C.B.

(Mr. Shibley)

was to encourage Mr. Manthorpe to make an investigation.

Was it not?

Mr. Smith: No.

Mr. Shibley: Then why did you call him?

Mr. Smith: I called him to tell him he was on the right track and to keep going at it.

Mr. Shibley: ^{Do} you realize there hadn't yet been an article referable to Hydro at the time?

Mr. Smith: ^{How about} The time I called Mr Manthorpe, was it before Cronyn called me. Was it or wasn't it?

Mr. Shibley: Mr. Smith, ~~was it or wasn't it?~~

~~When~~ you ~~say~~ say you called him to tell him he was on the right track?

Mr. Smith: Yes, right.

Mr. Shibley: At that time, Mr. Manthorpe hadn't been doing any articles on Hydro yet. Do you realize that?

Mr. Smith: No, I didn't.

Mr. Shibley: He was ~~doing~~ ⁵ an investigative-type reporting on another publication.

Mr. Smith: That's right, yes.

Mr. Shibley: The Fidnam affair.

Mr. Smith: No, it was OISE I think, wasn't it?

Mr. Shibley: Not OISE.

An hon. member: No, it was Fidnam.

Mr. Shibley: It was Fidnam. Is that correct?

Mr. SMith: I don't know.

Mr. Shibley: Yes.

Mr. SMith: I thought it was OISE, but I don't know.

Mr. Shibley: Now when you called him, therefore, and said he was doing a good job it had nothing ~~-~~ it had to do with another investigation. Did it not?

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C.B.

Mr. SMith: I'm not sure really.

Mr. Shibley: In any event you said "you ~~were~~ ^{are}
on the right track." Yes? Mr. Smith?

Mr. Smith: That's right.

Mr. Shibley: ~~And~~ Didn't you suggest to him
that he should have a hard look at the ~~Hydro~~ Hydro contract?

Mr. SMith: Probably yes.

Mr. Shibley: Yes. You called him, after all.

Mr. SMith: That's right.

Mr. Shibley: The whole purpose of your
communication was to instigate an investigation. Isn't
that so?

~~xxxxxx~~ Mr Smith: I would say yes.

Mr. Shibley: And you were quite free with the
information you were ~~disseminating~~ disseminating to him?

Mr. Smith: That's right.

Mr. Shibley: And I ~~was~~ put it to you that part
of what you were telling him as you told McAuliffe later,
is that you had received ^{this} ~~a~~ call from someone high in the
party sometime previously?

Mr. ~~Shibley~~ Smith: No.

Mr. Shibley: You wouldn't think that would ~~excite~~ ^{excite}
interest on the part of an investigative reporter?

Mr. Smith: I don't think I ^{had} ~~received~~ the call
when I talked to Manthorpe.

Mr. Shibley: You are saying as ^{at} ~~as~~ the time
you spoke to Manthorpe,...

Mr. Smith: I hadn't talked to Cronyn.

Mr. Shibley: All right, that ^{helpful} ~~shapes a little~~
because Manthorpe and you spoke together in November?

Mr. Smith: Yes.

Mr. Shibley: According to your recollection.

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C.B.

Mr. Smith: That's right.

Mr. Shibley: And your recollection was that your conversations with Mr. Cronyn were in December. Is that right?

Mr. Smith: That's right.

Mr. Shibley: Then you had your interview with McAuliffe in April. Is that right?

Mr. Smith: That's right.

Mr. Shibley: Did you talk to Mr. Manthorpe on more than one occasion?

Mr. Smith: He says I did, I think I talked to him twice. I think he ~~said~~ ^{said} three times but I only remember twice.

Mr. Shibley: He says three times. Did you talk to Mr. Manthorpe subsequent, in point of time, ~~from~~ ^{then} to your receipt of a telephone call from Mr. Cronyn?

Mr. Smith: My answer would be, I would say, No. I would say no. ^{Did} I talked to him after Cronyn? My answer would be no.

Mr. Shibley: ~~But~~ ^{If he} has a recollection of your telling him also of this communication from someone close to the cabinet, etc. →

Mr. Smith: Yes.

Mr. Shibley: That would necessarily be after your call with Mr. Cronyn?

Mr. Smith: No.

Mr. Shibley: Well, it couldn't be the other way around.

Mr. Smith: I think he is wrong ~~with~~ ⁱⁿ what he says.

Mr. Shibley: As far as you are concerned, you never had any ^{conversation} ~~conversation~~ with Mr. Manthorpe referable to a communication from an unidentified person close to cabinet?

Mr. Smith: That's right.

Mr. Shibley: All right.

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1130-11.35a.m.
B.A.

H-673-1

(Mr. Shibley)

What was the date of the letter you sent to Manthorpe congratulating him?

Mr. Smith: I don't know. I would say, maybe February, maybe March.

Mr. ~~Shibley~~ Shibley: In March?

Mr. Smith: I am not sure. I thought ^{GHT} it was February or March.

Mr. Shibley: Did he follow up with a telephone call to you at that time?

Mr. Smith: I don't recall.

Mr. Shibley: I have no further questions.

Mr. Chairman: Any further questions?

Mr. Walker: Just one question, Mr. Chairman, I am not sure whether it was answered in my absence or not, but Mr. Smith, could you tell us, during the period of your interview, I believe it was in April, with Mr. McAuliffe, were you at all times accompanied by other people who will testify today?

Mr. Smith: I am sorry, I was trying to recall something else.

Mr. Walker: Were there others present in your interview with Mr. McAuliffe?

Mr. Smith: Yes, David Grant and my secretary were there.

Mr. Walker: Yes, I think the point I am really trying to get at is, were they present at all times?

Mr. Smith: They were not present on the plane, but they were present in the office at all times.

Mr. Walker: Okay.

Mr. Smith: To the best of my knowledge.

Mr. Shibley: Were you present at all times when they were in conversation?

Mr. Smith: No, I was not.

Mr. Shibley: Is it ^{at} all possible that Mr. Grant ^{is} the senior official who reported upon the matter quoted in this article?

H-673-2

Mr. Smith: I don't think so.

Mr. Shibley: All right.

Mr. Chairman: Any other questions? Mr. All ^{AN.} ~~at~~

Mr. Allan: Just a brief question in respect to the

tendering ^{AND} ~~the~~ the statements that have been made that ~~the~~

Mr. Smith's company would get no further contracts, government contracts. I wonder if Mr. Smith would mind outlining the procedure that is presently in effect in calling tenders for government contracts?

Mr. Smith: All government contracts, Mr. Allan, that we quote on are sent out with approximately three to four weeks to tender.

Mr. Allan: This is a result of an advertisement?

Mr. Smith: The result of an advertisement, and the tenders, the complete plans and specifications are sent out and you are given time to figure on them, the tenders are sent in, they are accompanied by a security deposit or a performance bond, and the tenders are opened in public and the lowest bidder, I would say the lowest bidder always get^s the job.

Mr. Allan: So that really, if such a statement had been made it wouldn't have worried you very much, would it?

Mr. Smith: Nobody would make that statement to me connected with the Ontario government, and that is why I am so definite that it was never made, and I would never expect a person to make that in those connections. No statement was ever made to me.

Mr. Walker: You didn't quite answer Mr. Allan's question.

Mr. Smith: I am sorry.

Mr. Allan: I think he did.

Mr. Walker: ~~Exactly~~ As I recall your question it was that it wouldn't bother you, would it?

Mr. Allan: I gathered he ~~...~~

Mr. Smith: I don't think anybody would make that statement.

June 21, 1973
11.30-11.35a.m.
B.A.

Mr. Walker: I think what Mr. Allan was saying was that it wouldn't both you because ^{IF THE} low tender gets it ~~and~~ it wouldn't matter what you said about the ~~the~~

Mr. Allan: The colour of your hair.

Mr. Smith: I don't think anybody would ever make a statement like that. Nobody.

Mr. Chairman: Mr. Gaunt, you indicated you had a question.

Mr. Gaunt: I just have one or two short questions. Mr. Smith, bearing in mind that during the interview with Mr. McAuliffe you had indicated that you didn't want your name mentioned ^{AND} didn't want the name of your company mentioned ~~and~~

Mr. Smith: Right.

Mr. Gaunt: ~~Do~~ ^{Do} you think it would have been possible for you to say something to him ~~of~~ of the nature, "I had better keep my mouth shut" and that that comment of yours would be the result of your own internal thinking ~~to~~ rather than anything that may have happened externally.

Mr. Smith: I obviously didn't keep my mouth shut, so ~~and~~ It is the last time I will talk to the Globe and Mail.

Mr. Gaunt: I am sure the Star will be calling you. Be that as it may, I am just wondering if it would be possible for you to make that sort of comment within the context I have outlined.?

~~Mr. Smith: I am sure the Star will be calling you.~~

(Tape H-674 follows)

June 21/73
11:35 - 11:40 am.
M.S.

~~(Mr. Gaunt)~~

~~to make that sort of comment within the context I've outlined.~~

Mr. Smith: That I might have said to them I should keep my mouth shut?

Mr. Gaunt: Yes. You were saying to the reporter I don't want my name mentioned, I don't want the name of my company mentioned; and you may have said I had better keep my mouth shut. Do you think that's possible?

Mr. Smith: No, I don't think so.

Mr. Chairman: Fine, Mr. Smith, thank you very much. We ~~are~~ recessed for five minutes.

Mr. R.G. Hodgson: Mr. Chairman, I want to ask Mr. Smith just one question ---

Mr. Chairman: Oh, I'm sorry. Yes.

Mr. R.G. Hodgson: With regard to the January 21, 1972, HEPC Toronto office assumptions in this. I want to ask Mr. Smith: there's a note, in the second line of that it says: "no parking information, No parking maintenance, therefore." Did you subsequently ---,

Mr. Smith: I'm sorry, where are we?

Mr. R.G. Hodgson: In the file there's this document, Assumptions HEPC Toronto Office. The second line on that, and I think it may be fairly important, ¹¹On January 21, He submitted his contract on the 24th. And it would seem to me that unless the parking area and the parking part of the proposal was taken into consideration, it would be significant in content.

Mr. King: Have you got it, Mr. Smith? I understand that maybe Mr. Smith ---

Mr. Smith: I've got it. I've got it.

Mr. R.G. Hodgson: Did you get that information with regard to the parking area ---

Mr. Shibley: It's the second item on page one, Mr. Smith.

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11:35 - 11:40 am.
M.S.

Mr. R.G. Hodgson: ~~--- before~~ before you submitted your proposal?

~~Mr. Smith~~ ^{Mr. Smith}: ~~It was~~ "No parking information."
~~Mr. Smith: Oh, that was --~~ No, I think that's something Mo Sifton had done before he'd seen what we really had. I think that was his. Mo worked up a proposal ---

Mr. R.G. Hodgson: But others in your company were aware that there was a parking requirement?

Mr. Smith: Oh, we knew there was a parking requirement. We had it in our own specs and we had it carried. Sifton hadn't seen the plans or other things, and so he just drew up something and he brought that in. We actually went all that weekend hammering that out. So, that was just ---

Mr. R.G. Hodgson: He just wanted to clear ^{up} that point in the documents?

Mr. Smith: That was something he wanted to clear up.

Mr. Chairman: Thank you again, Mr. Smith.
May we be back here at quarter to twelve, please?

Committee adjourned for 10 minutes.

Tape H 675 follows

June 20, 1973
11.50 - 11.55 a.m.
M.R.

JOHN BRUCE CRONYN, sworn.

Mr. Shibley: Mr. Cronyn, what is your occupation?

Mr. Cronyn: My occupation is the senior vice president of John Labatts Limited.

Mr. Shibley: And other than that occupation, do you fulfill any other function relative to the Government of Ontario?

Mr. Cronyn: Well, for the past three years ending in about March, I was the chairman of the committee on government productivity and acted in that job as well as carrying on my job in the business world.

I also had task force Hydro reporting through me to the government.

Mr. Shibley: Yes. Now then, Mr. Cronyn, there was evidence given yesterday and again this morning by Mr. Smith of Ellis-Don Limited referable to a telephone communication between you and he and subsequently a face to face conversation at your cottage in the spring of 1972.

Have you had an opportunity to review the transcripts of evidence of Mr. Smith as given yesterday?

Mr. Cronyn: Yes, I have skimmed the pertinent parts of that transcript.

Mr. Shibley: Yes, And you were in attendance today during the course of his evidence this morning?

Mr. Cronyn: Yes, ~~yes~~ sir.

Mr. Shibley: Now dealing first with the matter of numbers of communication. Were there any communications as between you and he relative to the subject of the Hydro contract other than those to which Mr. Smith has adverted?

Mr. Cronyn: Well I don't know how many he has referred to. We had several conversations over the course of the year.

Mr. Shibley: All right. Let's start with them one at a time. When was the first communication between you and he in this respect?

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M.R.

Mr. Cronyn: I would say it was early in 1971.

Mr. Shibley: Yes.

Mr. Cronyn: He called me and asked me if I knew whether Hydro was going to go ahead with their building and were they seeking developers or bids for the job.

Mr. Shibley: Yes.

Mr. Cronyn: I told him at that time I didn't know whether they were or weren't going ahead with the building and I also told him at that time in view of the job I had with the government there was nothing I could do in the way of helping him.

Mr. Shibley: Yes. All right, when was your next communication?

Mr. Cronyn: Well it would be later on I would think in the spring of that year when he again told me that he was trying to find out whether there was anything going on and wasn't making much progress, and I think that the next one really was I guess the spring of 1972 when he told me that he felt he was getting the run around and wasn't getting a proper hearing for his proposition.

And I said well if you feel that - well he asked my advice what should he do, and my advice to him at that time was that if he felt he was getting a run around, he should very definitely go and see Mr. Gathercole or Mr. Gordon and lay his case before them.

Mr. Shibley: Would that be in the month of February, 1972?

Mr. Cronyn: The month of ~~February~~ what, 1972?

Mr. Shibley: The month of February, 1972?

Mr. Cronyn: Well it would be then or later.
I'm not sure of the exact time.

Mr. Shibley: All right. Just stopping at that conversation between you, he said that he felt he was getting the run around. Could you be more particular as to what he told you at that time?

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11.50 - 11.55 a.m.
M.R.

Mr. Cronyn: Well I think he referred to the fact that he didn't feel that they were really giving him a proper opportunity to put the proposition before them. They had given him a very short period of time and that he was hearing nothing back from them. He wasn't able to see them or get any - or a thorough discussion or presentation to them, and in fact weren't answering his letters.

Mr. Shibley: I understand that you are a director of his company?

Mr. Cronyn: Yes, I am, sir.

Mr. Shibley: And also a neighbour of his?

Mr. Cronyn: Yes, sir.

Mr. Shibley: And he describes you as a close personal friend.

Mr. Cronyn: That is correct, sir.

Mr. Shibley: All right. And in the circumstances, that I have just gone through, you didn't consider it unusual that he would communicate with you about his feelings of getting a run around?

Mr. Cronyn: Not unusual at all.

Mr. Shibley: Was he aware of the position you had as it affected Hydro at that time?

Mr. Cronyn: Yes he was aware of it.

Mr. Shibley: And did you do anything other than advise him to pursue the matter directly with Gathercole or Gordon?

Mr. Cronyn: Nothing. I was in no position to do that.

Mr. Shibley: I see. You made no other efforts on his behalf?

Mr. Cronyn: No, sir.

Mr. Shibley: ~~Now then, was any mention made as between he and yourself as~~

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DT

A

Mr. Shibley: Now, then, was any mention made as between he and yourself at that time respecting the position of Canada Square in the contest for this building?

Mr. Cronyn: Well, he was saying he was getting the run^Aaround. He also said that he felt that Canada Square had the inside track.

Mr. Shibley: Was there any mention made as to why he thought Canada Square was being given the inside track?

Mr. Cronyn: Nothing but her^Aesay.

Mr. Shibley: Well, what was the her^Aesay?

Mr. Cronyn: Well the her^Aesay was that because the contractor, Canada Square, Mr. Moog was a friend of Mr. Davis he was therefore being given the inside track, which is complete her^Aesay, ~~and~~

Mr. Shibley: So that it was part of your discussions in the spring of 1972 that Mr. Moog was a friend of Premier Davis?

Mr. Cronyn: Yes.

Mr. Shibley: Now when you say the spring of 1972, could you assist us in being more precise as to what time between March 21 and June 21 of 1972 this conversation took place?

Mr. Cronyn: I couldn't begin to tell you.

Mr. Shibley: I might assist you by telling you that Mr. Smith wrote to Mr. Gathercole on February 17 of 1972, asking for - I am sorry - he wrote to Mr. Gordon on that date, asking for an opportunity to make a more complete presentation. Does that date assist you in pinpointing the timing of the conversation you had in early 1972?

Mr. Cronyn: No, because it could have been before that or after that.

Mr. Shibley: In other words, it might have been as early as February, 1972, when you had this conversation?

Mr. Cronyn: It could have been, yes.

Mr. Shibley: Did he tell you at the time he discussed it with you of a conversation over dinner with Mr.

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11.55 to 12.00
DT

(Mr. Shibley)

Tamblyn of Tamblyn, Mitchell to the effect that they were already celebrating at Canada Square?

Mr. Cronyn: No, he didn't go into discussion about Tamblyn. He did say that he had heard that they already had the deal sewed ~~up~~^{up}, that he had heard it from general discussion ^{didn't} around the Toronto trade, but he ~~he~~^{define} - I read in the ~~transcript~~ transcript that.

Mr. Shibley: ^{Did} ~~Do~~ you have any comments to make to him in the course of that conversation referable to the possible effects of the friendship of Premier Davis with Mr. Moog ^{upon} ~~the~~ ~~the~~ letting of that contract?

Mr. Cronyn: Pardon, I didn't get the ~~the~~.

Mr. Shibley: Did you make any comment to Mr.

Smith ~~the~~

Mr. Cronyn: No.

Mr. Shibley: ~~As~~ As to the possible effects of the relationship of friendship between the Premier and Mr. Moog regarding the letting of the contract?

Mr. Cronyn: I guess I probably said that I believed it had absolutely nothing to do with it, no bearing on it at all, and I think that's probably why I said you should go and talk to Mr. Gathercole or Mr. Gordon.

Mr. Shibley: From what he had said to you, however, it was implicit that he considered it had ~~some~~ something to do with it?

Mr. Cronyn: Yes.

Mr. Shibley: And when I say it had something to do with it, I mean that Mr. Smith considered the friendship between Premier Davis and Mr. Moog had something to do with Canada Square getting this contract?

Mr. Cronyn: He looked at that as a possibility.

Mr. Shibley: All right, Now then, having regard for what Mr. Smith told you as to the history of dealings between Hydro and Ellis-Don, I am now thinking in terms of the shortness of time, the limited specifications ~~and~~

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DT

Mr. Cronyn: Lack of response.

Mr. Shibley: Lack of response, he told you all these things, and he put them in the context of getting a runaround, is that correct? ~~Yes~~ You have to say yes for the record.

Mr. Cronyn: Yes.

Mr. Shibley: And he put it in the context of a view that the friendship between the Premier and Mr. Moog was contributing to this set of circumstances, is that correct?

Mr. Cronyn: He felt that was a possibility.

~~Mr. Shibley: He was telling this completely false, and~~

~~the Premier was~~

(H-677 to follow)

June 21/73
12.00 - 12.05 pm.
R.E.S.

H-677 - 1

(Mr. Cronyn Shibley)

~~is that correct?~~

~~Mr. Cronyn: He felt that was a possibility.~~

Mr. Shibley: Are you telling this committee, then, ~~that~~ in the face of the whole of that combination of circumstances, the only response you made was to tell him to communicate with Mr. Gathercole ~~for~~ Mr. Gordon.

Mr. Cronyn: Because it was a decision that was in the hands of Mr. Gathercole and Mr. Gordon.

Mr. Shibley: You are a director of Ellis-Don?

Mr. Cronyn: Yes, I am.

Mr. Shibley: You are in a position -- you were then in a position to be able to communicate with Hydro in an authoritative way?

Mr. Cronyn: NO. No, sir.

Mr. Shibley: Well, ~~in this~~ let's leave it on this footing. Were you in a position to communicate with Mr. Gathercole or Mr. Gordon yourself?

Mr. Cronyn: Not really. I didn't feel I was in ~~the~~ position to do that.

Mr. Shibley: You didn't feel it was any part of your function to intervene in these circumstances that I've outlined to you, ~~xx~~ which were being outlined to you at that time by Mr. Smith?

Mr. Cronyn: There was no place that I could intervene.

Mr. Shibley: Yes. Did it not excite some concern on your part that this combination of ~~x~~ circumstances had been disclosed to you?

Mr. Cronyn: Not really. I mean, as a director of his company there is no reason why he shouldn't disclose this to me, that he was unhappy with the treatment that he was getting.

Mr. Shibley: It did or it did not cause you concern? I'm not sure of your answer.

Mr. Cronyn: Well, I didn't know what you meant by

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(Mr. Cronyn)

concern -- concern that he was telling me? I had no concern that he was telling me.

Mr. Shibley: NO, I mean, did you have any concern that this was happening?

Mr. Cronyn: Well, certainly I did.

Mr. Shibley: Yes, and did you ~~do~~

Mr. Cronyn: And if it was true, it was being badly handled.

Mr. Shibley: Yes, and did you not feel you had some responsibility to do something about it?

Mr. Cronyn: NO, sir; it ~~w~~ is not within any terms of reference of my job to do ~~w~~ anything about that.

Mr. Shibley: And you never took it up with anyone within Hydro?

Mr. Cronyn: NO, I did not, sir.

Mr. Shibley: Nor did you take it up with anyone within government?

Mr. Cronyn: No, sir.

Mr. Shibley: Did you have any advice, beyond what you have told us, to give to Mr. Smith at that time?

Mr. Cronyn: ~~Well~~, That was the only advice I gave him

Mr. Shibley: All right. Well, when was the next communication?

MR. Cronyn: Well, it's hard to say whether it was in the summer or fall; and it was just a continuation of the same sort of reaction, that ~~it~~ ^{he} really was getting nowhere. And then I suppose when the contract was let sometime in the fall of 1972, ~~it~~ ^{he} certainly got some reaction there; pretty much of a "well, ~~it~~ ^{what was} I told you so, this was ~~going to happen~~".

Mr. Shibley: Let's go back for a moment to the communication in the summer or summer-fall of 1972. Can you be more precise as to the time of that communication?

Mr. Cronyn: Well, when was the contract let? When did it become known?

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Mr. Shibley: It was signed on November 1 and was published, I believe, shortly thereafter.

It was prior to the execution and then publication of the agreement with Canada Square?

Mr. R Cronyn: Well, I think it was earlier than that that it was public knowledge that Canada Square had the job.

Mr. Shibley: In any event, the communication we are talking about was during the summer of 1972?

Mr. Cronyn: Summer-fall; somewhere in there.

Mr. Shibley: Yes, ~~and~~ you say it was the same reaction ^{so} that the reaction at that point of time was one of getting the ~~runner-up~~ ^{run-around}, is that correct?

Mr. Cronyn: Well, I don't ~~know~~ know when Don Smith learned that the contract had gone to Canada Square, but it was at that time there was some further discussion.

Mr. Shibley: Well, ^{I took it} from your earlier answer ~~at~~ that particular point in time. ~~22~~

Mr. Cronyn: ~~At~~ that ... (~~incredible~~) ...

Mr. Shibley: ~~At~~ that there were two discussions, one in the summer-fall and prior to the contract being published, and then another one in the fall of 1972 when he said, "I told you so."

Mr. Cronyn: Well, if we had one in the summer, it was a very casual one during ~~then~~ ^{at} ~~that time~~.

Mr. Shibley: That's the one I want to deal with first.

Mr. Cronyn: That was simply a comment ^{or a} ~~of~~ request ^{guess} from ~~me~~ ^{for me} - I ~~guess~~ say, "how are things going," and ~~Don~~ ^{Don} had really given up at that point.

Mr. Shibley: Where did this conversation take place?

Mr. Cronyn: Probably at our cottages at Grand Bend.

Mr. Shibley: ~~And~~ did he again tell you that he felt he was getting ~~in~~ the run-around?

Mr. Cronyn: No, Really at this point he had given up; he had just washed his hands of it.

Mr. Shibley: Did ~~xx~~ he make any expression to you ~~xx~~

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(Mr. Shibley)

at that time that he thought it was a pre-determined arrangement for letting the contract to Canada Square?

Mr. Cronyn: NO, I don't think we had any detailed conversation; ~~as~~ this was just simply, "I give up. It's going to go to Canada Square."

~~Mr. Shibley: Did he say anything that would indicate to you that he didn't feel he was getting a fair shape or had not~~

(Tape H-678 - 1 follows)

Mr. Shibley: Did he say anything that would indicate to you that he didn't feel he was getting a fair shake, or had not received a fair shake?

Mr. Cronyn: No, he didn't pursue that discussion.

At that time.

Mr. Shibley: When he later told you, after the contract was published: "I told you so." He did say that.

Mr. Cronyn: Hm mm.

Mr. Shibley: What did he mean by saying "I told you so."?
What had he told you?

Mr. Cronyn: That he felt that Canada Square had the inside track.

Mr. Shibley: So that when did he tell you he felt that Canada Square had the inside track?

Mr. Cronyn: Well, I think it was back at February, or that spring discussion that he told me that.

Mr. Shibley: I see. And in the intervening discussion in the summer - fall, that was no part of that discussion?

Mr. Cronyn: No. They weren't detailed discussions they were just comments in passing.

Mr. Shibley: When he told you in the fall of 1972, "I told you so." was he upset?

Mr. Cronyn: No, I don't think he was particularly upset. It wasn't an angry exchange or anything; he just happened when I saw him he said "I told you so."

Mr. Shibley: Did he say anything else?

Mr. Cronyn: No.

Mr. Shibley: Nothing else~~2~~ that you can remember?

Mr. Cronyn: Nothing of any consequence that I can remember.

Mr. Shibley: And what did you say to him?

Mr. Cronyn: What did I say to him? I just shrugged my shoulders. I'd known nothing about it other than that Hydro had handled it rather badly. But other than that, I had no comments.

Mr. Shibley : Why did you say it had been handled rather badly?

Mr. Cronyn : Well, from the version that Don had given me of the time, the response, etc.

Mr. Shibley : Had you informed yourself in any other manner during the interval pending your conversation with Smith in the fall of 1972?

Mr. Cronyn : Had I what?

Mr. Shibley : Informed yourself as to the circumstances regarding the letting of the contract to Canada Square from any other source?

Mr. Cronyn : No, I hadn't.

Mr. Shibley : So, right up until the fall of 1972, the ~~what~~ only source of information you had, referable to the letting of this contract, was from Mr. Smith alone?~~x~~

Mr. Cronyn : That's correct.

Mr. Shibley : Did you give him any advice respecting his own reaction or conduct consequential upon the letting of the contract to Canada Square ?

Mr. Cronyn : No, Sir~~x mayxxxxxxx~~

Mr. Shibley : Not at that time?

Mr. Cronyn : Not at that time.

Mr. Shibley : Now then, what was your next communication with Mr. Smith?

Mr. Cronyn : The next one would have been the "famous" phone call.

Mr. Shibley : Famous or notorious, yes, we'll wait and see.

Mr. Cronyn : Call it what you like.

Mr. Shibley : All right. The famous phone call, when was this made?

Mr. Cronyn : Well, it must have been made subsequent to December 12, which I believe was the date that it was on the order paper; the questions were on the order paper for Mr. Nixon, the 12th or 13th or 14th somewhere in there in December.

Mr. Shibley: Yes.

Mr. Cronyn: And this was published and known, and also there was a rumour around the place that the Globe and Mail was going to do an investigation of this contract, and Nixon's questions included "who are the other contractors etc. involved?"

Mr. Shibley: Yes. Now, how would you be alert to what was on the order paper?

Mr. Cronyn: I read it in the paper.

Mr. Shibley: In the newspaper?

Mr. Cronyn: Yes.

Mr. Shibley: Do you exercise any function that would make you more knowledgeable as to governmental affairs than any other member of the public?

Mr. Cronyn: Well, having worked for two-and-a-half years on the reorganization of the government I had to ^(know) more about government than most people.

Mr. Shibley: You were still engaged in that occupation at this time?

Mr. Cronyn: Yes, I was still finishing off the final report, for the Committee on Government Productivity and, of course, Task Force Hydro was still in operation.

Mr. Shibley: To whom were you reporting and with whom were you liaising at that time?

Mr. Cronyn: Well, we always reported to the Chairman of the Management Board, through the Chairman of the Management Board to Cabinet.

Mr. Shibley: Who is the Chairman of the Management Board?

Mr. Cronyn: Well, it varied over the years; at this particular time, McNaughton was I guess at this time. Yes, that's right.

Mr. Shibley: And it was only through him that you reported to Cabinet?

Mr. Cronyn: ~~Yes Sir.~~

(Tape H 679 follows)

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~~Mr. Cronyn: Mr. MacNaughten was I guess this time.~~

~~Mr. Shibley: And it was only through him that you reported to Cabinet.~~

Mr. Cronyn: Yes, sir.

Mr. Shibley: Did you have any direct communications with members of Cabinet at that time?

Mr. Cronyn: Just the usual casual ones.

Mr. Shibley: So you noted that these questions were on the order paper and the rumour of the Globe and Mail doing an investigation. Are you telling us that this is what prompted you to make the telephone call to Mr. Smith?

Mr. Cronyn: That is correct, sir.

Mr. Shibley: What was your purpose in calling?

Mr. Cronyn: My purpose was as I've stated before, as a director of the company, and a friend of Mr. Smith, the purpose of calling was to alert him to the fact that the press could easily be calling him as a result of Mr. Nixon's questions in the House or as a result of an investigation that was rumoured by the Globe and Mail.

Mr. Shibley: And your recollection that when that ~~was~~ phone call was made ^{was} sometime around mid-February of 1973?

Mr. Cronyn: No. No. The phone call was made very short after the December questions by Mr. Nixon.

Mr. Shibley: Oh it was December. I thought you said February.

Mr. Cronyn: No, no. December.

Mr. Shibley: December 12, 13 and 14. I'd wrongly noted So it was around that time?

Mr. Cronyn: Yes, sir.

Mr. Shibley: Could you be more precise, Mr. Cronyn, as to what you said to Mr. Smith and what he said to you, as accurately and as completely as you can?

Mr. Cronyn: I make a lot of phone calls in a day. That is quite a while ago, you are asking me to recall. But I can give you the essentials of it.

The essentials were that he should be prepared for a phone call so he knew what he was going to say to them. And I think hi

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(Mr. Cronyn)

only question on advice was, "What do you think I should do?". And my advice to him was to simply, if he was unhappy as I thought he was about the treatment that he got in tendering to Hydro, then he should simply tell the press the facts of the case, and to stay away from conjecture or hearsay. And that was the limits of my advice, and the limits of the conversation. I left it up to him.

Mr. Shibley: Now, of course, at the time you placed the call to him you had in recollection the earlier conversations you had had with Mr. Smith during 1972, Is this right?

Mr. Cronyn: Correct.

Mr. Shibley: And you were alert to the circumstances that he felt he had been getting the run around?

Mr. Cronyn: That's right.

Mr. Shibley: That Canada Square had the inside track?

Mr. Cronyn: That's right.

Mr. Shibley: And all of these things were in your mind as at the time you placed the call to him?

Mr. Cronyn: Right.

Mr. Shibley: Yes. But the advice you gave him, you say was "to tell the press the facts and stay away from conjecture or hearsay".

Mr. Cronyn: I said, ~~Wifx~~ if he is unhappy as I think he is about the treatment he received from Hydro then he should tell the press, and tell them the facts.

Mr. Shibley: Mr. Cronyn, when you placed that call, did you place it on your own initiative or were you asked to place the call or instructed to place the call by anyone else?

Mr. Cronyn: I placed it on my own initiative as a director of his company and a friend of his.

Mr. Shibley: Had you had any discussion with anyone in government or within Hydro in the ~~interval~~ interval prior to your phone call in December to Mr. Smith referable to the head office building?

Mr. Cronyn: I had discussions, but not in the context that we are talking about *here*.

H-679-3

Mr. Shibley: Yes. What I am thinking about, Mr. Cronyn, did you discuss with anyone, within Hydro or within government, during the period between the fall of 1972 and your call in December of 1972 to the effect that you ~~needed~~ knew that Mr. Smith was unhappy about the manner in which Hydro had handled this contract?

Mr. Cronyn: Yes, I think I probably mentioned that fact.

~~Mr. Shibley: Yes, I think I probably mentioned that fact.~~

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PLG

Mr. Shibley: And to whom did you mention it?

Mr. Cronyn: I mentioned it to Jim Fleck.

Mr. Shibley: And who is Mr. Fleck?

Mr. Cronyn: Mr. Fleck is the chief executive officer to the Premier.

Mr. Shibley: What did you tell him?

Mr. Cronyn: I simply told him that Mr. Smith was unhappy with the treatment that he had received from Hydro, vis-a-vis his proposition. ~~He~~ he had put forward for the new office building.

Mr. Shibley: When did you make that communication to Mr.

~~Mr.~~ Fleck?

Mr. Cronyn: Some time in the fall.

Mr. Shibley: Would it be before or after your conversation with Mr. Smith in the fall of 72?

Mr. Cronyn: I guess it was before.

Mr. Shibley: Was it before or after the letting of the contract to Canada Square?

Mr. Cronyn: I would think it would be after the letting of the contract, yes.

Mr. Shibley: What was your purpose in communicating that information to Mr. Fleck?

Mr. Cronyn: My purpose was simply to point out to Mr. Fleck that from the vantage point that I had, it looked as though Hydro had done rather a sloppy job of taking tenders for this particular building.

Mr. Shibley: Did you give ~~me~~ him particulars as to why you considered it a sloppy ~~a~~ job?

Mr. Cronyn: Just ~~an~~ simply the same ones that I have given you.

Mr. Shibley: In other words you ~~related~~ ^{related} to him the premises of complaint that Smith had in turn given to you? Is that correct?

Mr. Cronyn: Yes, without the hearsay.

Mr. Shibley: Yes. You told Fleck that Ellis-Don had been given a very limited time to prepare a tender?

Mr. Cronyn: Yes.

Mr. Shibley: You told Fleck that Ellis-Don had been told not to submit drawings?

Mr. Cronyn: I don't know whether I touched on that.

Mr. Shibley: You told Fleck that Ellis-Don had no opportunity to follow-up with Hydro, is that right?

Mr. Cronyn: That is correct.

Mr. Shibley: And all the items of complaint that Mr. Smith registered with you, you passed them on to him. Is that correct?

Mr. Cronyn: I am not sure I passed all of them on. I just passed the salient items.

Mr. Shibley: And in communicating all of this to Mr. Fleck, did you in turn intend that the information be communicated to Cabinet through him?

Mr. Cronyn: Not at all.

Mr. Shibley: What was your purpose?

Mr. Cronyn: You must remember Jim Fleck was the executive director of the Committee on government productivity and was involved when we set up Task Force so he had an interest in that whole area. I was simply communicating it to him in a broader discussion of Hydro, a broader discussion of the office building.

Mr. Shibley: So as to put it into ~~an~~ context, your communication with Mr. Fleck was predicated upon your involvement with Hydro, as opposed to his responsibilities, vis.a-vis the Cabinet?

Mr. Cronyn: Yes sir.

Mr. Shibley: Other than Mr. Fleck, did you take this matter up with anyone else connected with government?

Mr. Cronyn: No sir.

Mr. Shibley: In particular, did you discuss it with any Cabinet minister?

Mr. Cronyn: No sir.

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Mr. Shibley: Did you discuss it with the Premier?

Mr. Cronyn: No sir, not in this context.

Mr. G. Hodgson: With any deputy, because the deputies were
^{R.}
^A ^{PRODUCTIVITY}
members of your ^A committee?

Mr. Cronyn: Not in this context.

Mr. Shibley: I would like you to explain that. You have
used that phrase as I related to my question respecting
communications with the Premier and now again with respect to
communications with any deputy Ministers. What do you mean, "not
in this context"?

Mr. Cronyn: Well, there had been informal discussion in
both the Committee on Government Productivity and in Task Force
Hydro, not on a formal basis, but on the wisdom of building the
Hydro office building in that location.

Mr. Shibley: So that your discussion,

Mr. Cronyn: Which had nothing to do with who was building
it.

Mr. Shibley: Right. You are talking now about the merits
of ~~building~~ building the building as opposed to selection of the
developer who was to have the job.

Mr. Cronyn: That is correct.

~~Mr. Shibley: Now I wish to ask the committee if they with the
Premier would you find it in the~~

Tape H 681 follows

June 21st, 1973

12.20 - 12.25 pm

H681 - 1

AA

(~~Mr. Shibley~~)

Mr. Shibley: Dealing with the communications with the Premier, would you first tell us when was there such a communication between you and ~~him~~ ^{him}?

Mr. Cronyn: Well, ~~it~~ it is hard to pinpoint that one. It would be, ~~on~~ perhaps, sometime in the fall of 1972.

Mr. Shibley: What were the circumstances surrounding your meeting? Was it a meeting ^{or a written communication?} ~~Really not a meeting?~~

Mr. Cronyn: Simply a discussion. I would ~~period~~ periodically see him to talk about the progress of the committee's work and the progress of Task Force Hydro, ~~but he~~ ^I raised the question of the wisdom of that location. It was a personal point of view of mine because we had done no detailed study. I just raised the question of should not other ~~alternative~~ ^{alternative} sites be looked at? There were certain studies being carried out by the government which had to do with the dispersion of ministries, etc., outside of Toronto; or agencies, or boards, or commissions ~~and that~~ I felt that certainly Hydro was one that should be looked at. I personally felt that there was no reason for the Hydro ~~xxx~~ building to be in downtown Toronto or next to Queen's Park. And if we ~~were~~ were honestly going to disperse from Toronto, some thought should be given to this in connection with this building. And we actually touched on this point of ~~dispersal~~ ⁱⁿ and several ~~of~~ ^{of} our ~~points~~ ^{reports}.

Mr. Shibley: Now, the reports that you mentioned, had they been published prior to July, 1972?

Mr. Cronyn: Well, some. We had been publishing them over a two-year period.

Mr. Shibley: Had there been any communication ~~between~~ between the staff at Hydro and the Chairman of Hydro, and

June 21st, 1973

12.20 - 12.25 pm

H 681 - 2

AA

(Mr. Shibley)

Is your committee referable to their head office building?

Mr. Cronyn: No, none at all.

Mr. Shibley: Notwithstanding that they knew that they were encompassed by the area of responsibility allocated to your committee?

Mr. Cronyn: There was ^(no) ~~not~~ a discussion of the office building. The Task Force Hydro study in terms of ~~reference~~ ^{painted covered (picture of)} ~~reference was~~ a much broader ~~things~~. It dealt with the relations of the Ontario government, overall organization, the CANDU reactor.

Mr. Shibley: You realize, Mr. Cronyn, that by the fall of 1972, the contract for the head office building had either already been let or was about to be let. The ~~decision~~ decision-making process was complete and I am trying to ~~understand~~

Mr. Cronyn: No, I didn't realize that at the time.

Mr. Shibley: I am trying to relate the timing of your discussion with the Premier as to the advisability of locating a building at this site and what was going on within Hydro, which had approved of ^a ~~the~~ contract yet to be formulated, as early as July 19, 1972.

Mr. Cronyn: I had no knowledge of that. I had no way of knowing it.

Mr. Shibley: When you took it up with the Premier in the fall of 1972, so far as you were concerned, was ~~it~~ it still an open question as to whether this building ~~should~~ ^{and, if so,} should be built at all ⁱⁿ this location?

Mr. Cronyn: That's right.

Mr. Shibley: What response did you get from the Premier in that respect?

Mr. Cronyn: I think his response was that it was being carefully studied by Hydro and this is where they feel their

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12.20 = 12.25

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AA

(Mr. Cronyn)

building should go.

Mr. Bullbrook: Excuse me, Mr. Shibley. I just want to understand the evidence of the witness entirely. Is the witness ^{saying,} in response to you, that at the time of ~~the~~ ^{his} discussion with the Premier in the fall of 1972, he had no intimation that the contract in connection with the head office building had been let, or was about to be let?

~~Mr. Bullbrook: That is my understanding of his answer.~~

Mr. Shibley: That is my understanding of his answer.
Mr. Cronyn: No, I said I did not know that it had been let. You were intimating that it had been let by 1972.

Mr. Bullbrook: He ^{said,} our counsel ^{it} was about to be let.

Mr. ~~Shibley~~ Shibley: Let me just give you the ~~chronology~~ chronology to assist you, Mr. Cronyn. The commission met on July 19 and approved the making of a contract with Canada Square. Negotiations were carried forward by Mr. McCallum, the Hydro special counsel, over the course of the next few months and by the end of October, approval was given for the execution of an agreement with Canada Square and the agreements were, in fact, signed on November 1.

H/682/4/2/H - 682 - 1 follows

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V.H.

(Mr. Shibley)

~~given for the execution of an agreement with Canada~~
~~Square and the agreements were in fact signed on~~
~~November 1, 1972.~~

Mr. Chairman: Mr. McCallum.

Mr. McCallum: Sir, I was just going to ask perhaps you missed one important factor, was there not in that inter-
val as I recall another incident that you were ^{bring} ~~saying~~ to the
attention of the witness? Was it not around the 25th August
and into the 1st September that there were newspaper articles
came out suggesting that they were about to do business with
Canada Square?

Mr. Shibley: Thank you Mr. McCallum.

Mr. McCallum: I think that fact would have been
out by then too.

Mr. Shibley: I wanted to give Mr. Cronyn as ~~man~~
much chronology as possible so as to put your discussion
with the Premier in context as against that background.
Now with the knowledge you ~~now~~ have of what was going on
within Hydro do I take that as of the time you were having
this discussion with Premier Davis you knew nothing of the
sequence of events that I have now outlined to you?

Mr. Cronyn: No I did not. I may have ^{spoken} ~~said~~
to him, perhaps it was in the summer. It must have come
out of the newspaper. I would have seen it in the newspaper.

Mr. Chairman: I am going to ask for an adjourn-
ment but I don't want to finish if you have any further
questions on this matter Mr. Bullbrook.

Mr. Bullbrook: Well no we are going to have *to come back.*

Mr. Chairman: We will adjourn then til ^{three}
oclock this afternoon.

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Thursday, June 21, 1973

Afternoon session

683-705

APPEARANCES

Committee members:

J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Ontario Hydro counsel:

Pierre Genest, QC
James McCallum, QC

Canada Square Counsel:

Douglas Laidlaw, QC

Counsel to J.D. Smith:

T.A. King, QC

Senior Vice-President, John Labatt Ltd.:

J.B. Cronyn

Journalist, The Globe and Mail:

J.W. Manthorpe

LEGISLATURE OF ONTARIO

SELECT COMMITTEE - HYDRO HEADQUARTERS

June 21, 1973

3.35 to 3.40

M.T.

H-683-1

The Committee resumed at 3:35 o'clock, p.m.

Mr. Chairman: I call the meeting back to order. I apologize to those people we have kept waiting, but there was a vote in the House and we all came down here immediately after. *One* ~~Another of the~~ items that the House did this ~~am~~ afternoon was to give the committee power to meet during the summer recesses. ~~The~~ way it's read is that we can meet in the recesses of the House. I have a note from the Clerk of the House which says, "Your committee will henceforth sit in the corner of the upper level of our vault".

But in any event I'm afraid we've got unlimited powers to sit all summer long, and I don't think any of us are too happy with it, but in any event, here we are and let's get on with the job. Mr. Shibley.

Mr. Shibley: I would like to recall Mr. Cronyn please. Mr. Cronyn, when we recessed you had referenced a meeting with Premier Davis sometime during the fall of 1972 and raised the question then with him ~~about~~ ^{of} alternative sites for the Hydro building, and you indicated that it was only as of that time that you were aware of the plans of Hydro to go ahead and construct a new head office building at this particular site. Is that correct?

Mr. Cronyn: No, I don't think that's right.

Mr. Shibley: All right, well then if I have improperly stated your evidence would you restate it please.

Mr. Cronyn: I said that I thought the discussion I had with the Premier was in the fall and I think it was, probably in November.

Mr. Shibley: In November. And did you not also say that this was about the time when you were first aware of Hydro's plan to build this building?

Mr. Cronyn: I don't think so.

Mr. Shibley: When did you first become aware of Hydro's intention to build a building on this site?

Mr. Cronyn: I guess years ago, when ^{they} first put forward ~~the~~ whole design.

June 21, 1973
3.35 to 3.40
M.T.

H-683-2

Mr. Shibley: Yes, I realize that, but I meant the more immediate plans. You knew the original plans had been deferred?

Mr. Cronyn: Yes.

Mr. Shibley: And when did it first come to your attention ~~that~~ plans were revised to go ahead with a new head office building?

Mr. Cronyn: Probably early in 1972.

Mr. Shibley: Early in 1972, is that correct?

Mr. Cronyn: Yes. Wouldn't that be the time that the propositions were called for from other contractors? *From contractors.*

Mr. Shibley: Yes. Would it be as at the time that Mr. Smith first spoke to you about getting the runaround in the spring of 1972, that you also became aware of plans to go ahead with the new building?

Mr. Cronyn: Yes, that's right.

Mr. Shibley: You had no previous information ~~that that~~ in that respect?

Mr. Cronyn: No, that's correct. The first time it was drawn to my attention that there might be something happening *was* ~~by~~ by Mr. Smith's first contact with him when he ~~asked me~~ *asked me* ~~did I know whether they were going ahead. At which point I~~ *asked me* ~~said no.~~

Tape H-683 follows

June 21/73
3.40-3.45 p.m.
E.M.

H-684-1

(Mr. Cronyn)

~~something happening or by Mr. Smith's first contact when he~~
asked me, did I know whether they were going ahead, At which
point I said, "No, I did not," which would be late '71, I suppose.

Mr. R. G. Hodgson: Mr. Shibley, I wonder if I might
have you ask the witness when ~~there~~ there is a split juris-
diction as to the Committee on Government Productivity and the
Task ^{Force} ~~Force~~ Hydro, when would he ^{have assumed} ~~assume~~ the duties regarding the
Task Force Hydro? I think we should have those dates separated.

Mr. Shibley: Thank you. Can you give us the
chronology, the periods of time during which you were involved
with Task Force Hydro and your other function?

Mr. Cronyn: Well, what happened was ^{that} the Committee
on Government Productivity was set up in January of 1970, and
it was during the course of the fall of 1970 that there was a
request made that ^{the} Committee on Government Productivity should look
at Hydro. Now, I at that time said that the load that we had
before us in a two-year time frame was such that we couldn't
possibly address ourselves to a study of the Hydro-Electric Power
Commission because of its size consequence. After some discussion
I made the suggestion that we set up a separate Task Force modelled
on the Committee on Government Productivity, but completely
separately staffed with its own Task ~~Force~~ Committee and its own
chairman. That consequently came into form some time in the
spring of 1971.

Now, the Committee on Government Productivity ^{'s} only
function in connection with Task Force Hydro was to review
their reports before they were submitted to the Cabinet, and
then made public.

Mr. Shibley: I see.

June 21/73
3.40-3.45 p.m.
E.M.

Mr. R. G. Hodgson: I think it's important to keep the relationship distinct, what the background is.

Mr. Shibley: Thank you.

Having regard for the views you expressed in locating this building at this site, why did you wait until the fall of 1972 to make your views known to the Premier, when in fact you were alerted to Hydro's plans as early as the spring of that year?

Mr. Cronyn: Because we had not addressed ourselves at the Committee on Government Productivity to the whole question of dispersal, decentralization, regionalization until probably early in 1972, and then really ^{we} just reviewed some preliminary work that was being done by the Provincial Government looking at that whole question. Actually, it really wasn't considered by the government in any form at all until I think some time in the fall of 1972.

Mr. Shibley: Mr. Cronyn, ~~second~~ Exhibit 108 in these proceedings is a press clipping of the Toronto Sun dated September 1, 1972 and its headline is: "Secret Government Study Shows ~~Hydro~~ Hydro Bureaucracy - Nixon". "An unpublished Task Force study of Ontario Hydro criticizes the provincial agency's ^{top heavy} ~~top heavy~~ ^{and} ~~management~~ calls for outlook to a costly bureaucracy according to Liberal Leader Robert Nixon". And it goes on to say, "Hydro recently announced plans to build a new \$40 million head office downtown at University Avenue and College Street, Nixon said Hydro has 5,000 head office employees; It doesn't need a head office in the most costly part of Toronto," he said. Nixon said the government should ^{be} ~~not~~ permitted to go ahead with the building before the public has had a chance to see the ~~an~~ report on its activity ^{and} ~~the~~ long running strike of Hydro employees remains unsettled."

June 21/73
3.40-3.45 p.m.
E.M.

(Mr. Shibley)

Now, I gather that the report that is referenced here is a Task Force Hydro report and was not a report ~~made~~ prepared by the Committee on Government Productivity?

Mr. Cronyn: No, that is certainly not in any report by the Committee on Government Productivity.

Mr. Shibley: Was the report of Task Force Hydro that is referenced in this press publication submitted to ~~the~~ you in the ordinary course as you have indicated?

Mr. Cronyn: Yes, it was.

~~Mr. Shibley: ...~~

(Tape H-685 follows)

H-685-1

(Mr. Shibley)

~~submitted to the Premier on June 1, 1973, and was not included in the~~
~~Mr. Cronyn's report.~~
Mr. Shibley: So can we take it that at about the early part of September, 1972, you were made aware of the plans to go ahead with this building at that site, and ^{is} ~~is~~ this report accurate, incidentally, insofar as it is a report criticizing the site?

Mr. Cronyn: No, I don't think there was anything in the Task Force Hydro report that criticized the site. It never touched on it at all.

Mr. Shibley: All right. In any event, I take it that notwithstanding you had received ~~that~~ a report from Task Force Hydro in September of 1972, the first occasion on which you communicated the views of your committee to the Premier or anyone.

Mr. Cronyn: They weren't the views of my committee. They were my personal views.

Mr. Shibley: Weren't you representative of the views of ^{your} ~~your~~ committee?

Mr. Cronyn: No. In this particular case I was speaking as an individual; ^{But} ~~we~~ we had done no studies, come to no conclusions in the committee.

Mr. Shibley: Not even as of the time you talked to the Premier?

Mr. Cronyn: Not on this particular subject of dispersal and decentralization.

Mr. Shibley: I thought that you,

Mr. Cronyn: If you look in our report #10, it is one of our recommendations for studies of zoning to be carried out.

Mr. Shibley: I see. But you had already formulated a personal opinion? Is that correct?

Mr. Cronyn: That is correct.

Mr. Shibley: That this building should not be built at this site?

H-685-2

Mr. Cronyn: No, that other alternatives should be looked at. I didn't feel that it had to be built at this site. ~~It~~ It didn't have to be in downtown Toronto. It didn't have to be next to Queen's Park. And that if the government was truly interested in dispersal then this of course was an example of something that could be built outside of Toronto.

Mr. Shibley: Yes.

Mr. Cronyn: It was in that manner the discussion took place.

Mr. Shibley: Well all right.

Mr. Cronyn: I don't think ^{anyone here in the} ~~anyone at~~ Task Force Hydro would report, ~~in any~~ ^{in any} words like this.

Mr. Shibley: What was the response of the Premier to your expression of views in this regard?

Mr. Cronyn: I think as I said this morning that his reply was that Hydro had studied that situation carefully, and it was their decision that this was the best location for their office building.

Mr. Shibley: Is that the whole of what he said?

Mr. Cronyn: Yes.

Mr. Shibley: Did he give any indication as to the studies to which he was making reference?

Mr. Cronyn: No, he did not.

Mr. Shibley: Just in general terms he said that studies had been effected. Is that correct?

Mr. Cronyn: Yes.

Mr. Shibley: Was there any indication from him that the decision was already taken at that time?

Mr. Cronyn: Well it must have been, because if it was in November I talked with him, then it was common knowledge by then that the decision had been taken.

Mr. Shibley: Yes. Now then, on the occasion of your meeting with the Premier, was there any discussion as to the selection of Canada Square as the developer for the project?

Mr. Cronyn: None.

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3:45 - 3:50 pm
CA

H-685-3

Mr. Shibley: Not withstanding that Mr. ~~Smith~~ Smith and yourself had discussed the relationship between the Premier and Mr. Moog as relevant in Mr. Smith's thinking respecting that selection, you did not raise it with the Premier?

Mr. Cronyn: I did not raise it with the Premier.

Mr. Shibley: And he didn't mention anything about it to you?

Mr. Cronyn: No, he did not.

Mr. Shibley: Have you had any discussion, other than with fact
Mr. Smith, respecting the ~~affair~~ of the friendship between the Premier and Mr. Moog as it pertains to Canada Square being awarded this contract?

Mr. Cronyn: No sir.

Mr. Shibley: Have you ever seen any document relative to the matter of the friendship between the Premier and Mr. Moog being a circumstance influencing ~~the selection of Canada Square as the developer for this project?~~

~~Mr. Cronyn: No, I have seen nothing.~~ 

H-686-1 follows

June 21/73
3.50 to 3.55 pm
fvk

(Mr. Shibley)

~~During the hearing, Mr. Moog stated a circumstance in fact, namely,~~
the selection of Canada Square as ^{the} a developer for this project?

Mr. Cronyn: No, I see no possibility.

Mr. Shibley: Have you any knowledge, or information, that the circumstance that Mr. Moog is a supporter of any particular political party entered into the decisions taken to award this contract to Canada Square?

Mr. Cronyn: No.

Mr. Shibley: Getting back, Mr. Cronyn, to your conversation with Mr. Smith, your evidence earlier today was that you told him if he was unhappy - "If you are as unhappy as you think you are tell the press the facts and stay away from conjecture or hearsay." ^{That was} ~~xxxxxx~~ the advice you gave him. Is that correct?

Mr. Cronyn: That's correct.

Mr. Shibley: So, can we take it that ~~if~~ you left it up to him as to whether he would discuss matters with the press, depending on whether he was as unhappy as he felt. Is that right?

Mr. Cronyn: That was entirely up to him what he did with the press.

Mr. Shibley: You didn't try to deter him from discussing it with the press?

Mr. Cronyn: I certainly did not, sir.

Mr. Shibley: The only advice you gave him was to ~~xxx~~ be factual?

Mr. Cronyn: That's correct.

Mr. Shibley: That's correct?

Mr. Cronyn: ~~That's it.~~ Yes, sir

Mr. Shibley: I'm going to read to you from the transcript of Hansard, Tape 640, page two, which is Mr. Smith's evidence.

Mr. Cronyn: May I see a copy of that?

Examine Mr. Smith
Mr. Shibley: Yes, surely. Mr. Benwick was examining you at the time, ^{Mr. Shibley} I'm sorry, examining Mr. Smith, ~~xxxx~~ thank you, Mr. Chairman.

June 21/73
3.50 to 3.55 pm
fvk

(Mr. Shibley)

~~He starts~~ ~~And expressed~~ this is a continuation, ~~XXXXXXXXXXXX~~

"Mr. Renwick: "Just to simply let you know. ~~He didn't~~"

(meaning yourself)

"He didn't indicate to you the way in which, or the manner in which, you should respond to any such call if the call came through to you from the Globe and Mail ~~Mail~~ Mail?"

"Mr. Smith: No, he just said he wanted to let me know and he certainly didn't warn me."

"Mr. Renwick: Was there an intimation of caution knowing as he would know and as we have got to know this afternoon, as Mr. Bullbrook said, your very forthright nature?"

"Mr. Smith: Yes, there could have been an intimation of caution."

"Mr. Renwick: An intimation of caution?"

"Mr. Smith: Yes, But I think that is an intimation of caution that you get when you talk ~~a~~ to the press at any time and I would take it as being that."

~~MaxxShibley~~

~~He starts~~ Mr. Cronyn, when Mr. Smith was asked if you indicated to him the way in which, or the manner in which, ^{you} he should respond to any call, he said: "No, ~~He~~ just wanted to let him know that a call was coming."

Your memory of the conversation goes beyond that, I take it, that you told him to tell the press the facts and stay from conjecture or hearsay. Is that correct?

Mr. Cronyn: ~~I'm sorry~~, I don't really think that's telling the manner that he should answer the question. I left it entirely up to him whether he wanted to answer it, or not answer it, or what he did with the press. I don't think I gave him any instructions on the manner.

Mr. Shibley: If I may say so, Mr. Cronyn, it seems that you answer invited him to be more responsive providing that it was factual than Mr. Smith indicated in his evidence. Do you agree with me as to that?

H-686-3

June 21/73
3.50 to 3.55 pm
fvk

Mr. Cronyn: No, I don't know that I do.

Mr. Shibley: All right. In the course of that conversation,

did ~~xxxxxx~~ you, at any time, make comment to Mr. Smith ~~which~~ .



(Tape H-687 follows)

June 21/73
3:55 - 4 pm
C.B.

(Mr. Shibley)

~~may comment to Mr. Smith~~ which either amounted to a ~~threat~~ threat or it might be interpreted by him as threat that he should keep his mouth shut, When the Globe and Mail reporter

Mr. Cronyn: No way at all.

Mr. Shibley: In no way at all. Did you at any time, ~~with Mr. Smith~~ ^{either} expressly or by implication, use words in your conversation with Mr. Smith which he might interpret to mean, that if he didn't be quiet he might never get another government contract.

Mr. Cronyn: ~~No~~ way at all.

Mr. Shibley: Was there any discussion between you of the circumstance that the company of which you are both directors was heavily engaged ~~a~~ or had in the past engaged in doing government work.

Mr. Cronyn: No discussion at all.

Mr. Shibley: Or that the company might in the future be doing government work?

Mr. Cronyn: ~~No~~ discussion.

Mr. Shibley: So that when the - I'm sorry - have you read the newspaper account in the Globe and Mail of October 30, which is now exhibit 172, and I ask it be produced to you. You can go immediately to the first column, Mr. Cronyn, about halfway down the page.

Mr. Cronyn: This is April 30?

Mr. Shibley: Yes, exhibit 172.

Mr. Cronyn: I'm with you.

June 21/73

3:55 - 4 pm

C.B.

~~(Mr. Shibley)~~

Mr. Shibley: You will notice about halfway down it says, "An investigation into the three-year old affair has revealed a senior executive of one of the three unsuccessful firms that bid on the project said he was called several weeks ago by a source close to the Ontario Cabinet and high in the Progressive Conservative Party and told the Globe and Mail was investigating. 'I was told to keep my mouth shut or I would never get another government job,' the company official said. He insisted he not be identified."

~~Now~~ in respect of this statement in the press, Mr. Smith has identified you as the person to whom he was making reference when he described receiving a call from a source close to the Ontario Cabinet and high in the Progressive Conservative Party. What I'm interested in knowing and the committee is interested in knowing is whether the quotation attributed to Mr. Smith by Mr. McAuliffe, is an accurate statement of what Mr. Smith said to Mr. McAuliffe.

You weren't there of course.

Mr. Cronyn: I was not.

Mr. Shibley: And you can't know what Mr. Smith said to Mr. McAuliffe. But because Mr. Smith - I'm sorry ~~because~~ ^{but} because of the report, ~~was~~ ^{it} was represented as a report of what Smith told McAuliffe of a conversation with you, I want your comments as a matter of record, as to whether you ever used that type of terminology or said anything which would lead Smith to conclude that he had been told "to keep my mouth shut, or I ~~was~~ ^{would} never get another government job".

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3:55- 4 pm
C.B.

Mr. Cronyn: I did not.

Mr. R.G. Hodgson: Mr. Shibley, I wonder, the other part that hasn't been clarified is the relationship to the Progressive Conservative Party.

Mr. McCallum: I'm sorry I can't hear the member.

Mr. R.G. Hodgson: The other part that hasn't been clarified is the relationship to the Progressive Conservative Party. I think ~~was~~ you've cleared the relationship to the Ontario Cabinet, but I don't think the other part of that.

Mr. Shibley: Thank you, Mr. Hodgson. What relationship, if any, ~~xxxxxxx~~ have you to the Progressive Conservative Party Mr. Cronyn.

Mr. Cronyn: I didn't recognize myself when I read this on April 30, and I thought it was some other company. The highest I ever got in the Conservative Party was running a car pool for one polling district in my riding..

Mr. W. Newman: That's a high position.

Mr. ~~Mr~~ Cronyn.. Oh, is it? I didn't know

An hon. Member: Very important at election time.

Mr. Cronyn: Yes, it is.

H 688 to follow

June 21, 1973
4.00 - 4.05 p.m.
M.R.

~~(Mr. Chairman)~~

~~It was very important in the situation~~

Mr. Allan: Very useful.

Mr. Shibley: I'm wondering why you might be characterized in those terms? Have you nothing more to add ^{to} ~~that~~ what you have said?

Mr. Cronyn: Well, I wonder too. I've been working closely with the chairman of the Committee on Government Productivity on the executive side of government but nothing to do with the conservative party cause at all. ~~I have nothing to do with it~~

Mr. Shibley: Are you telling this committee, then, that you are not identified with any political party?

Mr. Cronyn: No, ~~no~~. No, I am not saying that.

But I have taken no active part with any political party ~~since~~ ^{and as} I took on my job as chairman of the committee on Government Productivity.

Mr. Shibley: Well, quite apart from that period of time, have you taken part actively in the affairs of the political party in this province?

Mr. Cronyn: Yes, as I said, I got up to the high order of operating a car pool in a polling district & in a riding in London.

Mr. Shibley: Is there some reason why Mr. Smith might characterize you as someone high in the Progressive Conservative Party?

Mr. Cronyn: I don't know the answer to that.

Mr. Shibley: Might he have inferred that by reason of your status as chairman of the Committee on Government Productivity?

Mr. Cronyn: That could be.

Mr. Shibley: But I take it that your selection for that post ^a ~~eminate~~ from your general business acumen and you have already mentioned you are ~~am~~ I believe a Senior Vice-President of Labatts?

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4.00 - 4.05 p.m.
M.R.

Mr. Cronyn: Of John Labatt Limited, yes.

Mr. Shibley: Are you on loan to the government?

Mr. Cronyn: I was on loan part-time.

Mr. Shibley: Yes.

Mr. Cronyn: during the course of this.

Mr. Bullbrook: Could we clarify one thing?

Mr. Shibley: Sure.

Mr. Bullbrook: Do I understand the witness to say that the most significant contribution to the welfare of the Progressive Conservative Party he has made was coming to the high office of operating a car pool?

Mr. W. Newman: ~~Refrain from~~ In a political sense.

Mr. Bullbrook: But I don't know what you mean by a political sense. I just

Mr. Walker: We've often said that, Mr. Bullbrook.

Mr. Bullbrook: ~~... inaudible ...~~ I've had my moments of glory in Sarnia!

I just want to clarify this. Counsel left it at that.

Mr. Shibley: Well, I must say that I feel less qualified to clarify it than any one of the members of the committee, every one of whom is a politician.

Mr. Bullbrook: Well, may I say this, Mr. Chairman, through you, then. I recognize that that is a highly ^{subjective} value judgement on the part of the witness ~~and my~~.

Mr. Chairman: Right.

Mr. Bullbrook: My inquisitive mind was not, of course, referred to the credibility of the witness but, since it is a value judgement, I would like to ask the witness if I might: Have you ever collected funds on behalf of the progressive Conservative Party?

Mr. Cronyn: Yes, I have.

Mr. Bullbrook: I'm wondering if you could tell us, therefore, on what occasion and from whom and what amounts that you collected?

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M.R.

Mr. Chairman: I think from whom is perhaps a little unreasonable.

Mr. Bullbrook: Well then, may I put this to you? then? I, as one member of the committee, regard the value judgement, as a politician ~~that~~ ^{ing} collected money ~~is~~ ^{as} a much senior position to operating a car pool.

Mr. Chairman: That's different, Mr. Bullbrook, I think you were the one ~~that~~ ^{ing} changed it to contribution - what was the contribution? I think the earlier line of questioning had been as to what positions he held and I think he indicated the top position he had held was ^{this} ~~car~~ pool position.

Then you said "is that the greatest contribution you have made to the party?"

Mr. Bullbrook: I see. All right, that might be unfair, then, in that context and I don't want that at all. We'll withhold that to the end of counsel's endeavours.

Mr. Chairman: Mr. Allan.

Mr. Allan: Well, I was going to ask if I was correct in my understanding that since Mr. Cronyn had taken on the responsibility of the chairmanship of these two bodies that he had had no active part in politics other than what he has mentioned.

Mr. Chairman: I think he indicated that, ~~was~~ ^{Mr. Della} ~~irrelevant~~ ^{??}

Mr. Allan: That was my understanding.

Mr. Shibley: Mr. Cronyn, ~~was~~ subsequent to your telephone communication with Mr. Candy in February - I'm sorry,

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M.S.

(Mr. Shibley)

with Mr. Smith in February of 1973. Did you have any further communication referable to his failure to obtain this project?

Mr. Cronyn: Can I have that one again, please?

Mr. Shibley: Subsequent to your telephone conversation in ---

Mr. Renwick: December 1972.

Mr. Shibley: December of 1972. Did you have any further conversations with Mr. Smith referable to the Hydro head office building?

Mr. Cronyn: No. I think the next ²⁵ one was the one that Mr. Smith referred to this morning ~~with~~ my cottage in the beginning of June.

Mr. Shibley: Would you please give us your best recollection of what was said by he and you on that occasion?

Mr. Cronyn: Well, I had just got back from Europe. I was up at the cottage on the weekend, ~~which was~~ Sunday around noon, Mr. Smith came over to see me and, in fact, discussed this article. And really that was the first time that I knew that the article was referring to Mr. Smith. I had gone away about May 9 - of course I had seen this before I went - but the version was so far from my telephone conversation that it didn't occur to me that this was Mr. Smith speaking.

Mr. Shibley: Did you read the whole of the article at that time?

Mr. Cronyn: I can't say that I did. I certainly read a good part of it.

Mr. Shibley: Well, Mr. Cronyn, if you read the whole of the article, I find it difficult to understand how you could have failed to identify Mr. Smith as the person who provided the information in the first portion of the article, having regard for the specific quotations as to what Mr. Smith told Mr. McAuliffe towards the latter part of this article. I'll go over it with you

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M.S.

(Mr. Shibley)

if you wish, but just as an example, after referencing the fact in the earlier part of the article that one official said, "Don't work too hard at it", and about the plans and so on, ~~the~~ column number two, on the right hand side:

"Ellis-Don Ltd. officials claim the firm's position has been misrepresented by Mr. Gathercole in his letter to Premier Davis.

"The rental rate Mr. Gathercole said Ellis-Don proposed was \$5.38 a square foot. Ellis-Don officials said they proposed three rates, the highest being \$5.13.....

"Donald Smith, president of Ellis-Don, also said his firm was refused repeated requests to make a formal presentation to Hydro's senior management people who would be making the final decision.

"Three weeks after Ellis-Don filed its submission, Mr. Smith followed it with a letter to Hydro's general manager, Mr. Smith said he did meet Hydro's chief architect..... Ellis-Don officials claim they first learned in July that Hydro was planning to have a private developer build Contact was maintained ..."

And then the phrase:

"Ken Candy told me we could bid but said, 'Don't work too hard at it'," Mr. Smith said, "I asked him what he meant but he didn't answer me," he added."

Now, surely that content identified the content of the first column towards the bottom of that column three quarters down: "One company official claims he was told by a senior Hydro executive that his company would be permitted to bid on the job, 'but don't work too hard at it'." The same quotations. You couldn't have been left in any doubt about the person who gave the interview.

Mr. Cronyn: Well, I certainly was. He insisted he not be identified; "A senior executive of one of the three

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4:05 - 4:10 pm.
M.S.

(Mr. Cronyn)

unsuccessful firms". I don't see that there's any firm conclusion that this was Smith.

Mr. Shibley: Well, I'm not suggesting a firm conclusion, Mr. Cronyn. But are you telling this committee that

Tape H 690 follows

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4.10 to 4.15 pm
fvk

(Mr. Shibley)

~~...I'm not suggesting a term conviction, Mr. Cronyn, but you~~
~~you telling this committee that when you read this article that~~
you did not infer that the source for the ~~first~~ first portion
of it that is not attributed to any identified individual was
anyone other than Mr. Smith?

Mr. Cronyn: I did not infer that it was Mr. Smith. I
didn't infer that it wasn't Mr. Smith.

Mr. Shibley: In any event, you say that the first time
you knew this was when he came to your cottage?

Mr. Cronyn: It was the first time I knew for sure.

Mr. Shibley: It was the first time you knew for sure?

Mr. Cronyn: I asked him.

Mr. Shibley: ~~xxxx~~ Pardon?

Mr. Cronyn: I asked him was this the result of his
discussion.

Mr. Shibley: And what did he say?

Mr. Cronyn: He told me about the interview and said,
of course, that he had not said the words: "I was told to keep
my mouth ~~xxxx~~ shut or I would never get another government job."
He said, of course, ^{"I} he did not say anything like that and I said:
^{TO CHRIST} "I hope you didn't".

Mr. Shibley: Did you appreciate, at that time, that
the person to whom Mr. Smith was referring when he gave this
interview was yourself - being the person who had spoken to him?

Mr. Cronyn: Yes, he confirmed in his mind that I was
the person who had called him, but not said these words.

Mr. Shibley: ^{EXACTLY} His concern was to communicate to you the
fact that ~~the~~ although the man he was talking about as having
spoken to him was yourself, he did not tell McAuliffe that you
had told him to keep his mouth shut? Was ^{anything} ~~anything~~ else said
between you on the occasion of his visit at your cottage?

Mr. Cronyn: No, I simply said that I hadn't really had
a chance to go over the clippings that are clipped for me when
I'm away and I really didn't know where the situation was now

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4.10 to 4.15 pm
fvk

(Mr. Cronyn)

and was he going to be called. Did he know when he was going to be called. Then the whole discussion came to an abrupt end because I got a call from my daughter who was marooned in the middle of ~~there~~ Italy without any money, and on Sunday, how to get money to ~~for~~ Italy is a tough job so that completely interrupted it. After that, several people dropped in, we had a drink and then..... ^{WE NEVER RESUMED THE CONVERSATION ANY FURTHER} (inaudible)

Mr. Shibley: On the occasion of this discussion, did you, first of all, suggest, or discuss with Mr. Smith the need to communicate to Mr. McAuliffe that ~~was~~ what was set forth in ~~it~~ this article was inaccurate in a material way?

Mr. Cronyn: I never communicated that, sir.

Mr. Shibley: Did you discuss with Mr. Smith that not only was inaccurate that you had ~~indicated~~ told him to keep his mouth shut but, also in your view, it was inaccurate that you were a person high in the Progressive Conservative Party?

Max Mr. Cronyn: No, I didn't discuss that.

Mr. Shibley: It wasn't discussed between you?

Mr. Cronyn: (indicates "No")

Mr. Shibley: After that meeting what was the next occasion on which this report of the conversation between you and Mr. Smith was considered, or discussed by you with anyone?

Mr. Cronyn: I really didn't discuss it with anybody.

Mr. Shibley: That was the last occasion on which you discussed this matter?

Mr. Cronyn: No, I think I've seen Don since and he ~~said~~ ^{told} asked me if I knew when I was going to be called. He ~~told~~ me that he had a meeting with yourself a week ago Monday, I believe. I said: ~~Max~~ "Let me know if ~~as you find~~ when ~~you're~~ you're going to be called."

Mr. Shibley: So that Mr. Smith was in communication with you following my interview with him a week ago Monday?

Mr. Cronyn: No, I don't think I've talked to Mr. Smith

June 21/73
4.10 to 4.15 pm
fvk

(Mr. Cronyn)

since then because I didn't know -

Mr. Shibley: I'm trying to help you Mr. Cronyn.

Mr. Cronyn: - when Mr. Smith was called.

Mr. Shibley: It would have been a Monday or a Friday
when I interviewed ~~we~~ him. I'm not sure when ~~we~~ we started to

~~on Monday. When we started to interview him on Monday.~~

(Tape H-691 follows)

June 21, 1973
4:15-4:30 p.m.
M.F.

H- 691 - 1

(Mr. Shibley)

~~I am not sure when I started to sit Mondays~~ which started to eliminate my interviews that day.

Mr. Chairman: A week ago Monday.

Mr. Shibley: You are quite right, it ~~was~~ ^{was} a week ago Monday.

Mr. Cronyn: No, I don't think I have had any conversations since that time because, I guess, I read in the paper that Mr. Smith was being called yesterday.

Mr. Shibley: I see. And was anything new or different added to your earlier discussions as to the content of this article?

Nothing
Mr. Cronyn: ~~He~~ whatsoever.

Mr. Bullbrook: Before you pursue, and without unduly intruding on your line of questioning, I want to get down correctly the comment in connection with the clipping and if you could - as I understood it it hadn't yet been clipped for Mr. Cronyn - I want to clarify in my mind, since he is not mentioned in the article, would it be in his capacity as a director of Ellis-Don that this would be clipped ^{in connection with} ~~CCGP~~ or task force Hydro? Because since he is not mentioned one would wonder why his clipping service would clip it for him, and just wonder if you would pursue that, or whether I have the evidence correct that it wasn't yet clipped for him?

Mr. Shibley: Mr. Cronyn, I think it would help if you just told us when ~~did~~ you first read the article of April 30th?

Mr. Cronyn: I read the article of April 30th I presume on April 30th or shortly thereafter.

Mr. Shibley: On the date of its publication?

Mr. Cronyn: Yes.

Mr. Shibley: In the ordinary course of a newspaper series?

Mr. Cronyn: I wasn't referring to this clipping.

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4.15-4.30 p.m.
M.F.

Mr. Bullbrook: Q - 691 - 2
Cronyn: Oh I am sorry.

Mr. Cronyn: ~~_____~~ I was just referring to general clippings that are done for me when I am away and not to this one. I had read this before I went.

Mr. Shibley: And having read it on the day of publication you did not identify the author of the earlier portions of the article - I am sorry, the source of the earlier portions of the article, as being Mr. Smith?

Mr. Cronyn: No. It could be Mr. Smith, but I didn't identify it and say that must be what John Smith said or something like that because ~~_____~~

Mr. Shibley: Are you telling us also that you didn't identify yourself as the person close to the cabinet and high in the party that was referred to in that paragraph?

Mr. Cronyn: No I did not.

Mr. Shibley: The first time you became alert to those circumstances was when Mr. Smith came to your cottage?

Mr. Cronyn: That is correct.

Mr. Shibley: And that was some time later the same month?

Mr. Cronyn: This was in early June. June 3rd, when I came back from overseas. Don't forget Mr. Smith was overseas and then I went overseas. I hadn't seen him since their annual meeting in April which was just before he left, which was before this article came out. So I hadn't seen ~~Mr.~~ ^{Mr.} Smith from the annual meeting which was April 23, or something like that, until June 3rd.

Mr. Shibley: Of course if you ~~didn't~~ ^{didn't} identify yourself as the person referred to in this article it would not excite any anxiety on your part?

Mr. Cronyn: No.

Mr. Shibley: You yourself never communicated with Mr. McAllister?

Mr. Cronyn: No, I did not.

Mr. Shibley: I have no further questions.

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Mr. Chairman: Any members of the committee?

Mr. Renwick: I have ~~some~~ a few questions, Mr. Chairman.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Mr. Cronyn would you help me ^{with} ~~with~~ the date on which you spoke with the Premier and correct me if my notes are incorrect.

The first reference this morning that you made with respect to ^{speaking} ~~speaking~~ with the Premier you used the phrase "fall of 1972".

Mr. Cronyn: Correct.

Mr. Renwick: And then just before we adjourned at lunch time after Mr. McCallum's interjections with respect to the publication in late August ~~about~~ ^{the} in the press of the announcement that Canada Square had got the contract, or was awarded the contract, you indicated that it may have been in the summer.

Mr. Cronyn: That is correct.

Mr. Renwick: And there was an indication by Mr. Shibley that the contracts ~~would be awarded within the next few~~

~~have been~~

Tape H - 692 follows

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4:20-4:25 pm

C.B.

(Mr. Renwick)

~~and there was an indication by Mr. Cronyn that the contracts~~

weren't signed until the first of November. Then when we came back and met this afternoon you indicated that the meeting with the Premier was - and you reconfirmed it in the fall of 1972 and then you said in November.

Mr. Cronyn: No I said "I think in November."

Mr. Renwick: Yes, and you said in support of that statement, that you ~~also~~ thought it was in November because the contracts had been signed at the first of November and therefore

Mr. Cronyn: I don't think I said that.

Mr. Renwick: Well ~~because of the fact that~~ I can check the Hansard and if it's of any material consequence I can raise it again. Let me specifically pursue the same point a different way: When did you speak with the Premier of the Province about the location of the head office, and on what occasion?

Mr. Cronyn: I said it was in the fall of 1972. I think it was in the month of November, I can't be specific as to the date at all.

Mr. Renwick: Is there any way, Mr. Cronyn, that you can provide the committee with the information on the time and occasion that you spoke about this matter with the Premier?

Mr. Cronyn: I don't think so. Because I puzzled this one during the recess to see if I could be more specific as to when it was. I saw him on odd occasions and at different presentations that were being made

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C.B.

(Mr. Cronyn)

to him.

Mr. Renwick: But you do

Mr. Cronyn: I can't pin down the date.

Mr. Renwick: But you do recall that there

was only one occasion that you spoke with the Premier dealing with any matter referable to the head office of Hydro?

Mr. Cronyn: That's correct.

Mr. Renwick: Although, as you say, you have seen the Premier on a number of occasions?

Mr. Cronyn: A number of occasions.

Mr. Renwick: Mr Cronyn, are you in a position to identify the time and the occasion when you relayed to Mr. Fleck the conclusion which you had drawn from your discussions with Mr. Smith, or your conversations with Mr. Smith, that Hydro had done what appeared to be, or looked like a sloppy job on letting the contract for the consturction of the head office?

Mr. Cronyn: Yes I think that must have been subsequent to Mr. Nixon's questions and before the answers were tabled in the House, which would mean sometime in early December.

Mr. Renwick: Sometime in December?

Mr. Cronyn: That's my best estimation of the time.

Mr. Renwick: Again my notes indicate, Mr. Cronyn, that sort of a fourth conversation in the chronology was in the summer or fall of 1972 when Mr. Smith I gather used the expression "I told you so," and that this conversation with Mr. Fleck took place in December of 1972.

Mr. Cronyn: That's my best guess or best estimate.

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C.B.

Mr. Renwick: What was Mr. Fleck's response to your statement to him about your concern about the way *an* *which* it ~~should~~ ^{had} been handled?

Mr. Cronyn: His response was that he didn't know whether this was correct or not. He just took my comment and absorbed it.

Mr. Renwick: Was the conversation with Mr. Fleck in December, before or after the ~~the~~ I think it was your phrase, "famous telephone call" which you located as being December 12 or 13, or 14, somewhere in that period.

Mr. Cronyn: I would presume it was before it.

Mr. Renwick: Before?

Mr. Cronyn: Yes I was still referring back to the ~~summer~~ late summer, early fall comments of Mr. Smith.

Mr. Renwick: You indicated, Mr. Cronyn, that your telephone call on December 12, 13 or 14, was in that area.

Mr. Cronyn: It was subsequent to Mr. Nixon's questions and before the answers were tabled in the House.

Mr. Renwick: That you spoke with ~~_____~~

H 693 to follow

June 21, 1973
4.25 to 4.30
M.T.

H-693-1

~~that you spoke with~~

Mr. Cronyn: That I phoned Mr. Smith.

Mr. Renwick: Mr. Smith, right. Using the dates December 12, 13 or 14, whatever that period of time was, you indicated, if my recollection is correct, that you called Mr. Smith on your own initiative to advise him ~~that~~ in your capacity as a friend and a director, that he could expect a call from the Globe and Mail because the Globe and Mail was investigating this question. Now, was that conjecture on your part, or did you have specific information at that time that the Globe and Mail were going to be investigating this?

Mr. Cronyn: No, I had no specific information. ^{There} ~~it~~ was a rumour around they were investigating and as they were investigating everything else, it seemed a reasonable bet. And this was subsequent to Mr. Nixon's questions in the House.

Mr. Renwick: I understand that, yes.

Mr. Cronyn: ~~That was~~ the key.

Mr. Renwick: So you had a conversation with Mr. Fleck; Mr. Nixon asked certain questions in the House; ~~as~~ and you telephoned to Mr. Smith, ~~and that~~ ^{it} was entirely out of the air that you had any knowledge about a proposed investigation by the Globe and Mail of the Hydro ~~was~~ ² question.

Mr. Cronyn: That's right, I had no specific knowledge.

Mr. Renwick: Mr. Cronyn, in connection with the friendship between ~~Mr.~~

Mr. Shibley: Mr. ~~R~~ Renwick, excuse me, before you ~~leave~~ leave that topic, I might assist you and the committee. Exhibit 120 and Exhibit 121, dated December 4 and December 13, relate to certain communications that may impinge on your last line of questioning. Do I take it, Mr. Cronyn, that you advised Mr. Fleck that Hydro had badly handled this transaction on the occasion of a discussion with him in December, 1972?

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M.T.

H-693-2

Mr. Cronyn: That's my best recollection.

Mr. Shibley: And about what time in ^{September} did you make that ~~communication~~ ^{communication} to Mr. Fleck?

Mr. Cronyn: As I say, I can't pin-point the date at all. My best recollection, it was either late November or early December.

Mr. Shibley: I see.

Mr. Cronyn: I am assuming ~~that~~ maybe it was early December because ~~because~~ Mr. Nixon's questions in the House would perhaps prompt me to make such a comment.

Mr. Shibley: So, it really doesn't ^{it's} ~~not~~ for you to answer, Mr. Cronyn, but I think committee should be alert to the circumstance that on the 4th of December Mr. Fleck was provided by Mr. Gathercole with a series of answers to the questions posed by Mr. Nixon, and Exhibit 121 indicates that ~~on~~ December 13, Mr. Gathercole ~~replied~~ to the Hon. Mr. Auld ~~was~~ ^{was} a similar set of answers to the questions. So that, can we take ~~it, Mr. Cronyn, that's all~~

Tape H-694 follows

(Mr. Shibley)

~~with a similar sort of answers to the questions as that can be taken~~
it, Mr. Cronyn, that as ~~as~~^{of} December Mr. Fleck was armed not only with these answers provided by Hydro about which you likely know nothing, but was also armed with information that you had provided as to the manner in which Hydro had embarked on this project. Is that correct?

Mr. Cronyn: Yes, but my information, my viewpoint was simply from, you know, Don Smith's vantage point in the whole operation.

Mr. Shibley: I realize that, so that Mr. Fleck would have received through you the ~~answers~~^(criticisms) directed towards Hydro by Mr. Smith at or about the same time as he was receiving Hydro's proposed answers to the questions put by Mr. Nixon in the House.

Mr. Cronyn: Could be, I wouldn't know.

Mr. Shibley: Yes. I'm sorry, Mr. Renwick, I thought that would round out ~~the conversation~~^{a per adventure of} what you were dealing with.

Mr. Renwick: Now, Mr. Cronyn, with respect to the comment by Mr. Smith to youⁱⁿ, and my notes show ~~where~~ somewhere in February of 1972, that it appeared to him - no - that he had heard that the deal was sewn up, and referred, as I understand it, to the friendship between ^P Premier Davis and Mr. Moog.

And your comment, if I have it -

Mr. Cronyn: I think I said "in the spring" didn't I "of 1972?" I couldn't tie that down to a specific month.

Mr. Renwick: I don't think the specific date in this case is as material as I consider the other dates. Sufficient to say during that conversation Mr. Smith~~s~~ indicated^{that} he'd heard the deal was sewn up, ~~referred~~ to the relationship or friendship between Mr. Davis and Mr. Moog, and your answer was "I probably said it had absolutely nothing to do with it."

I'm curious as to the use of the word "probably" on that occasion. Can you help me with what you did say to Mr. Smith when he ~~alluded~~^{alluded} to the fact that the relationship between Mr. Davis and Mr. Moog had something to do with the deal being sewn up for Canada Square?

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4:30 - 4:35 pm
JLP

Mr. Cronyn: Well, I don't know whether I said

"probably". I would ^{be} more likely to have said "I'm sure it has nothing to do with it." I think that's what I said this morning.

Mr. Renwick: And earlier, just shortly before that in the same circumstance where apparently Mr. Smith had indicated that Canada Square appeared to have the inside track because of the relationship between Mr. Moog and Mr. Davis, you used the phrase "that's complete hearsay".

I would like to ask you when were you aware of the friendship between Mr. Davis and Mr. Moog, to your specific knowledge?

Mr. Cronyn: I suppose that's the first time it ever came up, ~~was~~ in those discussions.

Mr. Renwick: In other words, prior to 1972 you didn't know ~~who they~~ Mr. Moog and Mr. Davis were friends or not, or knew each other?

Mr. Cronyn: No, I didn't.

Mr. Renwick: And you'd never met Mr. Moog?

Mr. Cronyn: No, never ~~met~~^{met} Mr. Moog.

Mr. Renwick: And you knew nothing about Canada Square?

Mr. Cronyn: Nothing about Canada Square.

Mr. Renwick: When you, in the telephone conversation with Mr. Smith in December of 1972, told him that if he was unhappy —

(Tape H 695 follows)

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4:35 - 4:40 pm

C.B.

(Mr. Renwick)

~~old that it is hearsay~~ as I think you are, keep to the facts and stay away from conjecture ~~or~~ or hearsay. —
 What was it that you were referring to as being matters of conjecture or hearsay? That Mr. Smith should stay away from?

Mr. Cronyn: Well ^any extraneous comment such as "Mr. Moog has the inside track," Mr. Smith had no knowledge of fact that would indicate that. That was just an opinion. That was the kind of comment that I was referring to.

~~Mr.~~ ^{that} Renwick: I take it then/in your capacity, and I want to keep your various compartments of activity watertight, if that's possible.

Mr. Cronyn: That's a bad word.

Mr. Renwick: In your capacity as a director of Ellis-Don and having known of Mr. ^{Smith's} ~~Smith's~~ continuing unhappiness with the way he had been dealt with by Hydro, and with the fact that you would appear to have to some degree shared the conclusion that Mr. Smith had drawn from his experience in the fact that you relayed the matter or ~~dixx~~ discussed the matter with Mr. Fleck, the factual part, that it was a sloppy job, ^{do} I take it that you made no further elaboration to Mr. Smith during that conversation in mid December then simply to say "stick to the facts, stay away from conjecture or hearsay" without any elaboration of what that meant?

Mr. Cronyn: There was no elaboration really, it was a very short conversation. I don't usually talk

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C.B.Mr. Cronyn

very long on the telephone.

Mr. Renwick: I understand that, and I can well understand. That poses part of my problem. Could you help me Mr. Cronyn as to what impression, having taken the initiative on ~~your part~~ a matter which you didn't know whether or not ~~it~~ was going to take place, ~~and~~ and being conjecture on your part ^{that} ~~about~~ the Globe and Mail ~~was~~ going to telephone Mr. Smith, ^{did} ~~that~~ you intended to convey to him in that telephone conversation?

Mr. Cronyn: The main purpose was simply to prepare him for a call from the press and ~~also~~ to make him ~~be~~ aware that it was coming up in the House. Now he may have read that in ^{the} ~~the~~ paper too. But not everybody reads government business.

Mr. Renwick: The question of it coming up into the House I'd like to set aside. To prepare him for a call from the press.

Mr. Cronyn: Which he might receive.

Mr. Renwick: ~~Which he might receive.~~ And that was pure conjecture on your part?

Mr. Cronyn

~~Mr. Renwick~~: Pure conjecture.

Mr. Renwick: Was there any comment made by you to Mr. Fleck or by Mr. Fleck to you with respect to ~~a~~ anticipated, expected, ~~the~~ rumoured or otherwise investigative report by the Globe and Mail during your conversation with Mr. Fleck?

Mr. Cronyn: No I don't think we discussed that point at all.

Mr. Renwick: Now on the ~~—~~ there was ^{some} ~~some~~ confusion in my mind which I wish you would just clear up. There was the reference which Mr. Shibley made to the unpublished study, and I want to use the term 'study' for task force Hydro about the location of the head office.

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4:35 -4:40pm
C.B.

Mr. Cronyn: There was no task force study on
the location of the office.

Mr. Renwick: There was no study made for
you about that matter at all.

~~Mr. Cronyn: There was no study made for~~

H696 to follow

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4.40 to 4.45
M.T.

H-66696-1

~~(Mr. Renwick)~~

~~that was no story made for you about that matter at all.~~

Mr. Cronyn: No, sir.

Mr. Renwick: Well then I think there can't be any confusion in my mind, then in other words, the newspaper story to which Mr. Shibley referred is incorrect, that is the one which refers to an unpublished report about the head office of Hydro.

Mr. W. Hodgson: That wouldn't be the first time ^{it} ~~A~~ was incorrect, would it? ~~A~~ Newspaper story.

Mr. Renwick: Well, it all depends. Will Rogers said that he only believed what he read in the newspapers.

Mr. W. Hodgson: That was Will Rogers, that was a long time ago.

Mr. Bullbrook: Let's not get in to partisan violence here.

Mr. Renwick: That story, then, is incorrect.

Mr. Cronyn: As far as I am concerned, I don't know what Mr. Nixon's referring to, but as far as I am concerned I don't think there is anywhere in Task Force Hydro's report ~~where~~ where they say, it's top heavy, calls for cut-backs, cost of bureaucracy, I don't think there is anything in Task Force Hydro's report that says that; if Mr. Nixon inferred that from the report.

Mr. Renwick: Well then, let me ask you another question, I think you will appreciate the difficulty I am having with your evidence. Why would you raise with the Premier of the province in November of 1972, which is your best estimate of when that conversation took place, a theoretical question about the location of the head office of Hydro and whether there should be dispersal and regionalization and decentralization of that head office operation, when the question had already been completely foreclosed by the ~~last~~ announcement in August and the letting of the contract in the fall of 1972 to Canada Square?

June 21, 1973
4.40 to 4.45
M.T.

H-696-2

Mr. Cronyn: Because we were having a discussion on the whole principle of regionalization, dispersal, decentralization, and the Hydro office building was a prime example as far as I, personally, was concerned, where dispersal could have been brought into play.

Mr. Renwick: Mr. Cronyn, were you raising this as a matter still open for discussion or were you expressing your ~~own~~ concern that the issue was now foreclosed?

Mr. Cronyn: Well, the issue was foreclosed.

Mr. Renwick: Yes, that isn't my question. My question was were you discussing it with the Premier as still an option open ~~as~~ by way of ~~xxxxx~~ recommendation ~~to~~ Task Force Hydro, or were you expressing regret that you hadn't got to the point where you could make your recommendation and there was not much point left to it because the issue was foreclosed.

Mr. Cronyn: No, because Task Force Hydro had made no study of that particular situation and was making no recommendation.

Mr. Renwick: I take it that in the conversation with Premier Davis you saw that you didn't believe that there was any occasion to refer at that time to him the ~~fact~~ fact that you shared, to some extent, the conclusion of Mr. Smith that the allocation of the work on the Hydro head office had been done in a sloppy manner.

Mr. Cronyn: No, because we weren't talking about the method of the building this existing building, we were talking about the principle where perhaps that building ~~that~~ should be, in the context of the overall discussions and studies that were going on within the government to do with dispersal, decentralization and regionalization of services.

Mr. Renwick: Mr. Bullbrook, were you going to pursue the matters of ~~the~~ Mr. Cronyn's relationship with the Conservative ~~Party~~ Party? If so I -

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M.T.

H-696-3

Mr. Bullbrook: I would prefer that you did, because it's obvious that your Party hasn't been involved at all in any relations. No, frankly, without tongue-in-cheek, you have covered most of the interrogation of the witness that I had intended and I am quite content that you pursue the rest of it.

Mr. Chairman: You are speaking from a position of purity?

Mr. Bullbrook: Right.

Mr. Renwick: My understanding, Mr. Cronyn, is that



Tape H-697 follows

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4.45 to 4.50 pm
fvk

(Mr. Renwick)

~~My understanding is,~~ the president of Labatts is Mr. Moore, J.H. Moore.

Mr. Cronyn: No, the president is Mr. Peter Hardy.

Mr. Renwick: Peter Hardy?

Mr. Cronyn: Right. And Mr. Moore is the chairman of the board.

Mr. Renwick: Chairman of the board, right. And you're the executive vice-president?

Mr. Cronyn: I'm a senior vice-president.

Mr. Renwick: Senior vice-president?

Mr. Cronyn: A senior vice-president.

Mr. Renwick: A senior vice-president? It's always difficult when everybody's elected simultaneously to tell who is most senior. Would you be aware of these ~~xxxxxx~~ contributions of — No; ~~the xxxxxxxx~~ Mr. Shibley, I don't want ^{to ask} — I want you ^{because} to intervene if it's not a relevant question ~~and~~ it may not be relevant. Are you aware of the political contributions to the Ontario ~~xxxxxx~~ Conservative Party of John Labatt Ltd.?

~~Mr. Cronyn: There's about six parties.~~

Mr. Cronyn: There's about six parties.

Mr. R.G. Hodgson: There's about six, and why don't you ask about them all?

Mr. Renwick: I will.

Mr. Shibley: Mr. Renwick, you've invited me to interrupt. I really think that ~~xxx~~ to permit that question invites an inquiry of similar ^{sorts} ~~source~~.

Mr. Renwick: I think you're right.

Mr. Shibley: ~~is~~ beyond the limits of ^{this} inquiry.

Mr. Renwick: Right, I think that's why ~~is~~.

Mr. Bullbrook: I agree.

Mr. ~~Renwick~~ ^{Shibley}: I have a mental flag in my own mind. ^{Mr. Shibley} I might

tell you that I do consider it relevant and I have requested each of the developers who made submissions to provide information as to their respective contributions to the ~~xxxx~~ parties but

beyond that I think it's beyond the scope of this inquiry.

Mr. Renwick: Let me try a different ←


Mr. Shibley: Mr. Baillbrook, I wonder really whether the point has already been covered? This witness has indicated that he exercised very important responsibilities on behalf of the government. He was in close communication referable to those responsibilities with members of the government, and whether or not the term ~~analogue~~ ^{implied employment} is apt, I don't really believe enough turns on the ~~distinction~~ ^{of} whether more money was contributed, and so forth, adds anything. It's quite clear ^I ~~to~~ ¹⁵ suggest this committee that Mr. Cronyn is a person of considerable responsibility as it relates to the functions of the government of this province.

(Mr. Shibley)

or did have until recently. To pursue it further really doesn't add very much. I think, on the other hand, the fact of investigating things like fund-raising, contributions, and so forth, are not yet acknowledged as appropriate for public disclosure. ^{int. l} ~~we~~ we receive ^{decision} ~~our decision~~ at this level to that effect, I don't think we should presume on it.

Mr. Chairman: I don't know whether Mr. Renwick is going to agree with that last point or not.

Mr. Renwick: Yes, I agree and I'm not interested in either being cute, or otherwise ~~about to be~~ ~~about to be~~



(Tape H 698 follows)

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4.50 to 4.55 pm
DT

(Mr. Renwick)

~~I agree and I am not interested in either being asked or answering~~
about it. I want to be fair but there is a matter which I want
to try and indicate ~~and~~ and I don't think I would pursue the
question at all if Mr. Cronyn himself had not more or less
indicated that he ^{had} ~~has~~ had a rather lowly role to play in the
Progressive Conservative Party. ~~Mr. Cronyn~~ Mr. Cronyn, you
said you were a fund raiser for the Conservative Party?

Mr. Cronyn: Federal.

Mr. Renwick: Federal Conservative Party.

Mr. Cronyn: I have never collected funds for
the provincial Conservative Party.

Mr. Renwick: ^{You have} Never collected funds for the Ontario
Conservative Party and you held no office in the Conservative
Party federally or provincially. ^{Mr. Cronyn: Or provincially. Mr. Renwick:} I have no further questions
at the moment, Mr. Chairman.

Mr. Shibley: Mr. Chairman, if I may, Mr. Cronyn,
I would like to direct your mind again to the first few weeks of
December, 1972, and in terms of relating it in point of time you
said Mr. Nixon placed certain questions on the order paper.
Is that correct?

Mr. Cronyn: That is correct.

Mr. Shibley: And this is what you prompted you
in point of time subsequent thereto to call Mr. Smith?

Mr. Cronyn: That is correct.

Mr. Shibley: Was it subsequent in point of time
to those questions being tabled that you also spoke to Mr.
Fleck?

Mr. Cronyn: That, I am not sure ~~sure~~ of.

Mr. Shibley: Can you give me the sequence of
whether you spoke to Fleck first and then spoke to Mr. Smith?

Mr. Cronyn: I think I had spoken to Fleck before
I spoke to Mr. Smith.

Mr. Shibley: Did ^{anything} ~~any~~ ~~between~~

Mr. Cronyn: But there is no connection between the

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DT

(Mr. Cronyn)

two and there ^{is} ~~was~~ a time lapse.

Mr. Shibley: Well, that's what I wanted to know.

Did anything Mr. Fleck say to you contribute to your decision to call Mr. Smith?

Mr. Cronyn: None whatsoever.

Mr. Shibley: Did you at or about the same time call any of the other developers? I am not by the question suggesting you did, I want to make that clear; but I would like to know for the record, ~~was~~ did you call any of the other developers who submitted proposals?

Mr. Cronyn: I did not.

Mr. Shibley: The only one you called was Mr. Smith.

Mr. Cronyn: Mr. Smith.

Mr. Shibley: Have you any information that anyone was in communication with any other developer?

Mr. Cronyn: No, I have not.

Mr. Shibley: You had previously told Mr. Fleck of the complaints of Mr. Smith, had you not? I already have the transcript of your earlier testimony, I might say.

Mr. Cronyn: How about giving it to me?

Mr. Shibley: Unfortunately, it's the only copy. I have asked it to be rushed through to me and it hasn't been reproduced. ~~was~~ I am trying to establish ² ~~the~~ chronology of what was taking place in November-December, 1972, and --

Mr. Cronyn: I think this morning I said it was in the fall, didn't I, or late fall?

Mr. Shibley: Your evidence was: ^A "I mentioned it to Jim Fleck." Q "And who is Mr. Fleck?" A "Chief executive officer to the Premier." Q "What did you tell him?" A "I simply told him that Mr. Smith was unhappy with the treatment that he had received from Hydro, vis-à-vis his proposition he had put forward for the new office building." Q "When did you make that communication to Mr. Fleck?" A "Some time in the fall." Q "Would it be before or after your conversation with Mr. Smith in

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DT

(Mr. Shibley)

the fall of 72?" A I guess it was before.* ~~*****~~

Q Was it before or after the letting of the contract to Canada Square?" ~~*****~~ A I would think it would be after the

letting of the contract, yes.* Q What was your purpose in

communicating that information to Mr. Fleck?" ~~*****~~

~~was simply to point out~~

(H-699 to follow)

June 21, 1973
4.55 - 5.00 p.m.
M.R.

(Mr. Shibley)

~~"I would think it would be after the letting of the contract, you";~~

~~"And I was your purpose in communicating that information to Mr. Fleck?"~~

A: "My purpose was simply to point out to Mr. Fleck that from the vantage point that I had, it looked as though Hydro had done rather a sloppy job of taking tenders for this particular building."

Q: "Did you give him particulars as to why you considered it a sloppy job?"

A: "Just simply the same ones that I have given you."

Q: "In other words you related to him the premises of complaint that Smith had in turn given to you? Is that correct?"

A: "Yes, without the hearsay."

Q: "Yes. You told Fleck that Ellis-Don had been given a very limited time to prepare a tender?"

A: "Yes."

Q: "You ~~told~~ told Fleck that Ellis-Don had been told not to submit drawings?"

A: Mr. Cronyn: "I don't know whether I touched on that."

Q Mr. Shibley: "You told Fleck that Ellis-Don had no opportunity to follow-up with Hydro, is that right?"

A: "That is correct."

Q "And all the items of complaint that Mr. Smith registered with you, you passed them on to him. Is that correct?"

A: "I am not sure I passed all of them on. I just passed the salient items."

Q: "And in communicating all of this to Mr. Fleck, did you in turn intend that the information be communicated to Cabinet through him?"

A: ~~Answer~~ "Not at all". (QUOTE ENDS)

Now, what I am concerned about ^{is} were you then talking about the self-same conversation with Mr. Fleck subsequent in point of time to the questions posed by Mr. Nixon in the House or prior ~~in~~ point of ~~time~~ time to those questions being tabled?

Mr. Cronyn: This is the point I can't give you an answer to. I can't pinpoint it to that extent.

Mr. Shibley: Well then again, referable to the time that you spoke to the Premier, can you tell us whether your discussions with Mr. Fleck were before or after your conversation with the Premier?

Mr. Cronyn: I am quite sure they were after my conversations with ~~the~~ the Premier.

Mr. Shibley: After your conversations with the Premier? Is that correct?

Mr. Cronyn: Yes.

Mr. Shibley: And had you provided the Premier with the self-same information referable to the complaints from Mr. Smith?

Mr. Cronyn: No, I had not. I never discussed who was building the building or under what terms with the Premier.

Mr. Shibley: Why did you distinguish between the communication you provided the Premier and the information you provided to Mr. Fleck?

Mr. Cronyn: Well, the conversations were ⁱⁿ an entirely different context.

Mr. Shibley: Notwithstanding that you were aware that basic to Mr. Smith's complaint was the suspicion in his mind that the relationship ~~was~~ friendship may have had something to do with Canada Square getting the contract, you didn't raise that with the Premier?

Mr. Cronyn: No, I did not raise that with the Premier.

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4.55 - 5.00 p.m.
M.R.

Mr. Shibley: And yet you shortly thereafter did raise all of this with Mr. Fleck?

Mr. Cronyn: No, I didn't raise anything about the friendship with the Premier with Mr. Fleck.

Mr. Shibley: I'm sorry.

Mr. Cronyn: Just read my evidence, please.

Mr. Shibley: Yes. You raised all the items of complaint with Mr. Fleck.

Mr. Cronyn: Of fact.

Mr. Shibley: Yes. Is that correct?

Mr. Cronyn: Of fact.

Mr. Shibley: Yes.

Mr. Chairman: He says, ~~Chairman~~ "I'm not sure I passed all of them on to him."

Mr. Shibley: Yes.

Mr. Cronyn: The ones I did raise were of fact.

Mr. Shibley: ~~Yes~~ I have no further questions.

Mr. R.G. Hodgson: I have a couple I'd like to ask.

Mr. Chairman: Mr. Hodgson.

Mr. R.G. Hodgson: Mr. Cronyn, how did you learn about the tabling of the questions by Mr. Nixon?

Mr. Cronyn: I read it in the paper.

Mr. R.G. Hodgson: You read it in the paper.

Would it be possible that Mr. Fleck because of your previous comment to him about Don Smith being unhappy, ^{was} the way that you learned that the Globe and Mail may be investigating?

Mr. Cronyn: No, it was not.

Mr. Chairman: Mr. Bullbrook.

Mr. Bullbrook: Yes, I just wanted to clarify a couple of things in my mind. It might be somewhat reiterative of the questions of Mr. Renwick but I want to take you back to the conversation that you had with Mr. Smith when he brought to your attention that he hadn't used these words to Mr. McAuliffe, "I was told to keep my mouth shut or I would never get another

H-699 - 4

June 21, 1973
4.55 - 5.00 p.m.
M.R.

(Mr. Bullbrook)

government job, the company official said". I believe that
was at Grand Bend?

Mr. Cronyn: That is correct.

Mr. Bullbrook: Well, according to the evidence
of ~~the same case as the one in the evidence~~

H-700 to follow

June 21, 1973
5.00-5.05 pm
V.H.~~that is correct.~~~~Mr. Bullbrook: According to the evidence~~

Mr. Smith, he came over to your cottage I believe?

Mr. Cronyn: June 3, I believe.

Mr. Bullbrook: June 3. And he made it quite clear to you at that time that he had not said those words or inferred anything of a like nature....

Mr. Cronyn: Quite clear.

Mr. Bullbrook: ... to Mr. McCallum?

Mr. Cronyn: Quite clear.

Mr. Bullbrook: I am just wondering if you could help us about the remainder of the conversation at that particular period. That is relevant to this because you will recall if you were here, Mr. Smith did mention that your wife was there and his wife eventually came over so I imagine there was much social discussion but I am wondering if you could help us for example did you mention to him anything or question him as to why he would refer to you as a source ~~close~~^{SV} to the Ontario cabinet and high in the Progressive Conservative party?

Mr. Cronyn: No I don't think I raised that point.

Mr. Bullbrook: Well to borrow a phrase from our counsel, did that ~~not~~^{SV} cause you any anxiety?

Mr. Cronyn: Not really.

Mr. Bullbrook: Well, Mr. Cronyn, your motive in phoning Mr. Smith around December 12, 13 and 14 I take it was one of either friendship or because you were a director of his company?

Mr. Cronyn: That's correct.

Mr. Bullbrook: And yet after you recognised the fact that Mr. Smith is referring here to you and refers to you as a source close the Ontario cabinet and high in the Progressive Conservative party, you say to me that that didn't cause you any concern?

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5.00-5.05 pm
V.H.

Mr. Cronyn: I certainly didn't pursue it with him.

Mr. Bullbrook: I don't want to unduly attempt cross examination ~~but~~ I want to have this clear in ~~my~~ mind because I have some reservation about what a reasonable discussion might be and your evidence to us and accepted by us is that your motivation in that call of December 12, 13 and 14 truly referred - it was in the context of your capacity as a friend of Mr. Smith?

Mr. Cronyn: And a director of his company.


Mr. Bullbrook: And a director of his company. So that the reference to you by him as a source close to the Ontario cabinet and high in the Progressive Conservative party did not cause you any anxiety.

Mr. Cronyn: I didn't pursue it with him. ^A ~~As~~ I said, a very short conversation, and it had mainly to do with the statement that he is quoted as to what this person who called him said. I didn't get into that aspect of it.

Mr. Bullbrook: Just one other line of questioning and I will be brief. ~~As Mr. Cronyn has just questioned~~ you, I want to question you about the words that you gave and the advice you ~~gave~~ gave to Mr. Smith. Stay away from conjecture and hearsay. Are you a lawyer by profession?

Mr. Cronyn: No, I am not sir. I am an ~~engineer~~ engineer.

Mr. Bullbrook: Well the only reason I asked that there was no ~~an~~ alternative motive. It is very good legal advice and I wanted to clarify with you there again in the context of your friendship, if that was the motivation of this call and your capacity as a director of the company, do I understand you correctly in response to counsel and to my colleague, Mr. Renwick, that the conjecture that you were referring to there was the conjecture expressed to you by Mr. Smith that the friendship of Mr. Moog and the Premier had something to do with the letting of the contract



June 21st, 1973

5 - 5:05 pm

H - 700 - 3

AA

~~(Mr. Bullbrook)~~

for the Hydro building.

Mr. Cronyn: No, I think I was referring ^{more,} at that time, although I didn't spell it out, to the conjecture about Mr. Moog having the inside track and that it was really all settled before Mr. Smith put in his proposition.

Mr. Bullbrook: So that you were cautioning him in effect to not to express to the newspaper the concern that he had expressed to you and the conjecture that he had expressed to you.

Mr. Cronyn: The conjecture that he had expressed to me.

Mr. Bullbrook: And when you spoke to Mr. Fleck, you spoke about all the other things, or most of them.

The evidence



H 701 - 1 follows

June 21/73
5:05-5:10 pm
PLG

(Mr. Bullbrook)

~~you spoke about all the other things or most of them the evidence~~
is, that Mr. Smith had complained to you about in connection with this particular letting of the proposal contract. Is that right?

Mr. Cronyn: Without the conjecture.

Mr. Bullbrook: You didn't speak to Mr. Fleck about the conjecture.

Mr. Cronyn: No I did not.

Mr. Bullbrook: About the hearsay, the word 'hearsay', had Mr. Smith told you anything that somebody else had told him that you didn't want told to the Globe and Mail?

Mr. Cronyn: No.

Mr. Bullbrook: What did you mean by hearsay?

Mr. Cronyn: Well I suppose one example of hearsay was the comment that somebody told him that Canada Square already had the job and were celebrating.

Mr. Bullbrook: I see. On December 12, or approximately at that time, when you phoned him--am I correct in my time here? When you phoned Mr. Smith?

Mr. Cronyn: That is when I phoned him in December.

Mr. Bullbrook: Would there be hearsay that Canada Square got the job at that time?

Mr. Cronyn: No. This was hearsay that Don had spoken back in -- it is in the script of yesterday, back in ..

Mr. Gaunt
~~Bullbrook~~: Spring of 72.

Mr. Cronyn: The Spring of 72.

Mr. Bullbrook: The Spring of 72.

Mr. Cronyn: I think that is all in the script from yesterday. I was asked that question this morning.

Mr. Bullbrook: I just want to clarify it in my mind. Those are all the questions I have.

Mr. Allan: Mr. Chairman, if I might ask Mr. Cronyn one question, and that would be whether the advice you gave to Mr. Smith was given particularly with regards to the situation that you were discussing then, or whether it was advice you would give to

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PLG

(Mr. Allan)

anyone who was going to be talking to the press?

Mr. Cronyn: I would give that advice to anyone who would be talking to the press.


Mr. Allan: Even to me?

Mr. Cronyn: Even to you sir, although I don't think you need it.

Mr. Chairman: Any other questions ^{of} ~~Mr.~~ Cronyn?
Thank you Mr. Cronyn. I ask that you be close by - you ~~are~~ are not too far away anyway. There may be some reason ~~for~~ ^{for} recalled.
Thank you very much.

An hon. member: Time for a break.

Mr. Chairman: All right. I see you are going to have one whether I ask your permission or not. We will adjourn until quarter after five.



June 21/73

5:20-5:25 pm

C.B.

Mr. Chairman?Ladies and gentlemen ~~there~~well there ^{go} the bells.An hon. member: That's the Hamilton bill.

Hamilton, Wentworth.

Mr. Bullbrook: Well let's go. ~~let's go~~Mr. Chairman: Well we can get a little bit done anyway. Ladies and Gentlemen I call us back to order and Mr. Shibley:Mr. ^C McFallum: ^{Mr.} Chairman just before you start I wonder if I could make an observation. The sort of thing that happened just now happened earlier today. There needs to be some way that people out in the lounge can be notified by you sir, or someone that you send, that the meeting is convening in here. There isn't any way and people are staying out there and are not aware of it. Could you do something to help them? I don't even know if they are all back now, ^{and its simply} because they don't know that ~~you~~ you are ready for business.Mr. Chairman. All right, But I did call softly I guess my voice is not ~~loud~~ loud enough. I'm the official court ~~crier~~ as ~~chairman~~ ^{will be} chairman of the meeting, and I did mention the time. I know your time is not ~~much~~ much guidance to you because ^{we are} ~~there is~~ already seven minutes ^{over} ~~before~~ the time. But I assure you haven't missed anything of any importance.Mr. Shibley: I'd like to call Mr. Manthorpe please.

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5:20-5:25 pm

C.B.

Mr. Chairman: ~~You~~ might take a look out there and see if there anybody who looks as though they belong in here.

JONATHAN WALTER MANTHORPE, sworn

Mr. Shibley: Mr. Manthorpe what is your occupation?

Mr. Manthorpe: I'm a journalist.

Mr. Shibley: With what publication are you associated?

Mr. Manthorpe: With the Globe and Mail.

Mr. Shibley: How long have you been with that newspaper.

Mr. Manthorpe: Nearly four years.

Mr. Shibley: It that connection what in particular are the form of assignments allocated to you?

Mr. Manthorpe: I'm a Queen's Park reporter.

Mr. Shibley: You've ~~heard~~ ^{Mr.} heard the evidence earlier and particularly that of ~~Mr.~~ ^{Mr.} Smith of Ellis-Don ~~identified~~ ^{that} that he was the person who communicated with you by telephone ~~that~~ ^{that} I believe, ~~on~~ ^{on} November of ~~1972~~ ¹⁹⁷², relative to the Ontario Hydro head office building?

Mr. Manthorpe: Yes.

~~Mr. Shibley: I have identified himself as the source of certain information.~~

H 703 to follow

June 21/73
5.25 to 5.30 pm
DT

Mr. Manthorpe: ~~Mr.~~

Mr. Shibley: Having identified himself as the source of certain information to you on that occasion, I understand that at the time of the telephone conversation, he remained anonymous.

Manthorpe:
Mr. ~~Manthorpe~~ That's right.

Mr. Shibley: But that he subsequently wrote a letter to you --

Mr. Manthorpe: That's right.

Mr. Shibley: And in the content of that letter, information sufficient to enable you to identify him as the person with ~~was~~ whom you had spoken in November was similarly demonstrated.

Mr. Manthorpe: That's right. Confirmation of what I already suspected.

Mr. Shibley: Yes. Now then, Mr. Manthorpe, I want to elicit from you the content of the conversation held between yourself and Mr. Smith on that occasion in November, starting firstly with the date on which that ^{conversation} ~~occurred~~ occurred.

Mr. Manthorpe: To my best recollection, it was either the last week in November or the first week in December.

Mr. Shibley: Did you phone him or did he phone you?

Mr. Manthorpe: No, he phoned me at about probably 2.30 in the afternoon.

Mr. Shibley: Now on that occasion, do ~~he~~ I take it that he introduced the topic of conversation?

Mr. Manthorpe: Yes, he did.

Mr. Shibley: And how did he open the conversation to you?

Mr. Manthorpe: He said that he had been reading some stories of mine in the newspaper and he wondered if I had ever thought of looking at Hydro's deal with Canada Square.

Mr. Shibley: Now, the newspaper articles to which he made reference had nothing to do with Ontario Hydro's new

(Mr. Shibley)

Head Office building?

Mr. Manthorpe: No, they referred to the Workmen's Compensation Board's deal with Fidinam (Ontario) Ltd.

Mr. Shibley: And what did he go on to say to you?

Mr. Manthorpe: Well, I said to him then that it was strange that he should mention that as I had just started looking at that particular deal, about two weeks before.

Mr. Shibley: What had caused you to start looking at that deal two weeks before?

Mr. Manthorpe: Rumours and information I was given during the course of looking at the Fidinam affair.

Mr. Shibley: And how far had your investigation into ~~the~~ the Hydro contract advanced as at the time of Mr. Smith's call to you?

Mr. Manthorpe: Not very far.

Mr. Shibley: So that you had only superficially been considering Hydro's. Now, then, having told him that it was coincidental for the reason that you were thinking about an investigation, what was next said and by whom?

Mr. Manthorpe: He then said the government is very nervous about that one, and then he said someone close to the Premier's office ~~was~~ called me and asked me to keep quiet about it.

Mr. Shibley: Now, did he say this to you at the outset of his ~~or~~ discussion with you —

Mr. Manthorpe: Yes, it was very close to the beginning of the conversation, yes.

Mr. Shibley: And do I take it then that he mentioned this in the context of saying notwithstanding that he had received this communication, he was nevertheless prepared to discuss it with you.

Mr. Manthorpe: He indicated that he was very upset

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DT


(Mr. Manthorpe)

by the situation.

Mr. Shibley: Did he sound upset?

Mr. Manthorpe: Certainly everything he had to say came in a rush. That was the only indication of his ire that I had.

Mr. Shibley: Now, I would like you to be very precise, as precise as possible, about the exact words that he used to you, in speaking to you, when he said -- "someone close to the Premier's office ~~has called me and told me that~~
~~has called me and told me that~~
~~has called me and told me that~~



((H-704 to follow))

H-104-1

June 21, 1973
5:30 - 5:35 p.m.
B.G.

~~...to you when he said, "someone close to the Premier's office"~~
has called me and asked me to keep quiet about this". Are you paraphrasing when you use those terms?

Mr. Manthorpe: No, I remember distinctly he said someone from the Premier's office. Now, whether he said to keep quiet about it ~~or~~ to keep my mouth shut, I couldn't be absolutely certain about, but I think he used the first term that I ~~mentioned~~ mentioned.

Mr. Shibley: I'm sorry, I was thinking of something else. Could you repeat that last answer?

Mr. Manthorpe: No, I think he said to keep quiet about it. I don't think that he said to keep my mouth shut.

Mr. Shibley: So that would you now ^{so}restate that we can clearly have what he said, nothing more and nothing less and as precisely as you can.

Mr. Manthorpe: ~~Yes~~ From the beginning of the conversation or just that particular part?

Mr. Shibley: No, just in respect to this particular statement.

Mr. Manthorpe: All right, he said the government was nervous about it, about the whole situation with Hydro, and I said some comment like, "is that so"; and he said, "Yes, someone close to the Premier's ~~same~~ office has called me and told me to keep quiet about ^{it}this". He had initially, of course, identified himself as the president of ~~the~~ one of the companies that failed to get the contract.

Mr. Shibley: He did identify himself to that extent.

Mr. Manthorpe: Yes.

Mr. Shibley: Now then, having made this statement ~~to you~~ ^{just} to you did you respond in some manner, or did he then ~~carry~~ carry on?

Mr. Manthorpe: No, I think we may have gone on from there to other things and then come back to that thing later.

Mr. Shibley: Let's take it in sequence of your actual discussions Mr. Manthorpe, I think that will keep it most orderly. When you said you went to other things, what

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V.H.

~~_____~~
did you next discuss?

Mr. Manthorpe: Well I think he then said that Canada Square had ~~been involved~~ ^{the inside track} on the thing although he may have said that they had had it handed to them on a plate, ^{but he used} some such phrase. I must admit I was somewhat skeptical about what was being said to me having had experience of this type of call before and I asked him for evidence of that. He then spoke of a series of things and I can't remember exactly in ~~which~~ which order but he mentioned that he had been given only two weeks to prepare a proposal. He said that he understood that Canada Square's architects had been working on final drawings for their building some weeks before the deadline for submission ^S to go in which indicated to him that they were certain that they were going to get it before the final date for tenders ~~was~~ came up. That's all I can be certain he mentioned on that occasion.

Mr. ~~Shibley~~ ^h: Yes. Now you mentioned earlier that he at some point of time returned to the item of the call from someone close to the Premier's office ...

Mr. Manthorpe: Yes.

Mr. Shibley: ... who had called and told him to keep quiet about it. Did you in fact return to that?

Mr. Manthorpe: Yes I came back to this.

Mr. Shibley: You returned to it?

Mr. Manthorpe: ~~Yes~~ ^{orpe} Yes.

Mr. Shibley: Did you consider this a ~~salient~~ salient item in the interview?

Mr. Manthorpe: Yes.

Mr. Shibley: And of course it being so you would make a point of going back to ensure exactly what he intended by the earlier statement?

Mr. Manthorpe ^{orpe}: Yes.

Mr. Shibley: Incidentally, did you take notes of the interview?

↓

H-704-3

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5.30-5.35 pm
V.H.

Mr. Manthorpe: I took some very rough notes on a scrap of paper which was handy. It was a scrap of paper which was handy, it wasn't a notebook.

Mr. Shibley: By any chance do you still have those notes?

Mr. Manthorpe: No, I don't.

Mr. Shibley: All right. Would you carry on.

Then you went back to the ~~same~~ topic

~~Mr. Shibley: I am not sure if I should say this.~~

H-705 follows

~~(Mr. Shibley)~~

~~And away on and then went back to the office.~~

Mr. Manthorpe: Yes. I tried to find out from him who it was that had called him. And he wouldn't tell me. And I ^{THREW} ~~through~~ out a few names ~~Mr. Shibley~~ at him, and he simply replied "no" to all of them. The conversation didn't last that much longer after that. I believe I asked him to call me again if he had any more information to give me. I indicated that I would be doing some-- make some inquiries as a result of what he had told me and I would like him to call me again in a few days.

Mr. Shibley: Before you left off that conversation with him, did you have any discussion with him directed towards ascertaining why, in the face of having received this phone call from someone to keep ~~quite~~ quiet about it, he nevertheless saw fit to call you?

Mr. Manthorpe: No, I didn't ask him about... I didn't ask him about it. He did make it plain that he was dissatisfied with the whole way that that agreement had been reached with Canada Square. He made it plain that this was his reason for calling me. And I took that to be his reason.

Mr. Shibley: In connection with his reasons for dissatisfaction, apart from the fact that he had a limited time to prepare ^a submission which he mentioned to you I gather? Is that right?

Mr. Manthorpe: Yes.

Mr. Shibley: Did he make any reference in the course of that conversation with you to the circumstance that Mr. Moog the principal ~~representative~~ of Canada Square was a friend of Premier Davis?

Mr. Manthorpe: That did come up. ^{Now whether} ~~I brought it up and~~ asked him about it, asked him whether he knew about it or whether he brought it up and I told him that I had already heard that, I can't recall, but certainly we were both aware of that story at that time.

Mr. Shibley: Yes.

Mr. Manthorpe: Or prior to that time.

H-705-2

Mr. Shibley: And beyond expressing the fact of this rumour was anything more said in that respect?

Mr. Manthorpe: There was one other thing which I just recall and that was that he said that when he had asked to put in a proposal he had been told not to put too much effort into it. He gave this as a piece of evidence of why he wasn't happy with the arrangement. He didn't tell me at that time I don't believe who had said that to him, and I am not sure that he ever did tell me who said it to him.

Mr. Shibley: Now in what context did he relate to you that he had been told not to put too much effort into it?

Mr. Manthorpe: As far as I recall he said that he had only found out that Hydro was asking for proposals by accident, and that he had gone to Hydro to ask about what they wanted, and that he had had some discussions with Hydro people, but had been told not to put too much effort into drawing up a proposal.

Mr. Shibley: Just returning for the moment.

Mr. Chairman: I wonder if we could break. The message I have is that the Whips are waiting for us. I am sorry. I know it is not a good place to break. Mr. Shibley was just wondering whether there was any chance of coming back at 7:30 p.m. rather than 8 p.m.

Mr. Walker: Mr. Chairman, there is another committee meeting on which three members of this committee serve, the select committee on economic and cultural nationalism which gathers at 6 o'clock and goes through to eight o'clock.

Mr. Chairman: We had better keep to our original plan then.

Mr. Shibley: You fellows do work hard.

Mr. Chairman: I now adjourn until eight this evening.

~~THE COMMITTEE ADJOURNED AT~~

It being 5:40 o'clock p.m. the committee took recess

~~THE COMMITTEE~~

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Thursday, June 21, 1973

Evening session

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
Counsel for J.D. Smith:	T.A. King, QC
Counsel for J.W. Manthorpe and Gerald McAuliffe:	E.M. Lane
Journalist, The Globe and Mail:	J.W. Manthorpe
Journalist, The Globe and Mail:	Gerald McAuliffe

List of exhibits introduced during this sitting appears on last page.

The committee resumed at 8.05 o'clock p.m.

Mr. Chairman: Ladies and gentlemen, I call the meeting to order again, and would ask Mr. Manthorpe to resume the seat of honour and pass him over to your gentle hands, Mr. Shibley.

Mr. Shibley: Mr. Manthorpe, we had carried forward your conversation with Mr. Smith on the first occasion down to the point where he ~~has~~ outlined to you certain circumstances which led him to believe that he hadn't been dealt with fairly. He had not identified himself. Is there anything more ~~referring~~ to that first conversation that you can recollect to advise the committee about?

Mr. Manthorpe: No, the only thing I can think of is that--just going through subsequent events in my mind again--it seems to me more likely that the call was ~~during~~ the first week of December than in the last week of November. That is the only thing I can think of.

Mr. Shibley: Mr. Smith's recollection, according to the transcript, is again much the same as yours that it was in early December or the latter part of November. You think it was early December when this communication took place?

Mr. Manthorpe: Yes, I couldn't be positive, I don't know where the end of the month fell in the week.

Mr. Shibley: All right. Did you have a second conversation with him?

Mr. Manthorpe: Yes. He called again about a week later.

Mr. Shibley: About a week later in point of time would be when in December?

Mr. Manthorpe: It would be probably some time toward the end of the second week, ~~no~~, it wouldn't be that long. If I can backtrack - probably the end of November is more likely because he called the second time somewhere within a week later, I would think, within a week later, and would probably take it

June 21, 1973
8.05-8.10 p.m.
M.F.

F - 706 - 2

(Mr. Manthorpe)

around some time ^{at} the end of the first week in December.

Mr. Shibley: So now we are talking in terms of the first communication, about ~~the first~~ -----

Mr. Manthorpe: Probably the last week in ^{November} ~~December~~.

Mr. Shibley: The latter part of November, and a second conversation within the first ^{week} ~~week~~ of December, ¹⁹⁷² ~~1973~~?

Mr. Manthorpe: Yes.

Mr. Shibley: All right. Now you ~~said~~ he initiated the call to you?

Mr. Manthorpe: Yes.

Mr. Shibley: Had you in the interval conducted any investigation on your own?

Mr. Manthorpe: I had done one main thing I had attempted to get an interview with Mr. Candy. That is the main thing that I can think of.

Mr. Shibley: And in that connection how did you attempt an interview?

Mr. Manthorpe: I telephoned him and asked him for an interview, ~~and~~ I said that I wanted to do a story on the new Hydro building and I would like an interview with him.

Mr. Shibley: What response did you receive?

Mr. Manthorpe: He was at first diffident and it was then that I learned for the first time of Mr. Nixon's question on the order paper. I hadn't been aware of it until that time. He was diffident to talk to me because this question was on the ^{order} ~~order~~ paper.

At the time the second call arrived from Mr. Smith I had not arranged an interview with Mr. Candy, though we were still in negotiations.

Mr. Shibley: ^{To the} ~~Is it~~ it in ¹⁹⁷³ ~~1972~~ Mr. Candy, at the time of your communication with him, ~~was~~ aware of the questions that were on the order paper as posed by Mr. Nixon?

Mr. Manthorpe: Yes. Well, so he gave me to understand.

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M.F.

H - 706 - 3

Mr. Shibley: And I might tell you, just to assist
members of the committee, that the suggested answers to those
questions again are ~~an~~ exhibit and were provided, I believe,
on December 4~~th~~ to Mr. -----

Tape H - 707 follows

H-707-1

June 21, 1973
8:10 - 8:15 p.m.
B.G.

(Mr. Shibley)

~~...I believe he is on December 4th...~~
Mr. Gaunt: Mr. Brannan, secretary to the Cabinet.

Mr. Shibley: Mr. Fleck, how does that --

~~Mr. Gaunt:~~
Mr. Gaunt: No, no, ~~no~~ they were provided to the
secretary to the Cabinet, Mr. Brannan.

Mr. Shibley: On December 4th.

Mr. ~~Renwick~~ ^{Renwick}: No, Exhibit 121, December 13th.

Mr. Shibley: No, that's to Mr. Auld; but there was an
earlier --

Mr. ~~Renwick~~ ^{Renwick}: Yes, but he said that it was "submitted
this morning to Mr. Carl E. ~~Brannan~~ ^{Brannan}."

Mr. Gaunt: I'm sorry, they were to Mr. ~~Brannan~~ Fleck.

Mr. Shibley: To Mr. Fleck, and I am just going by
memory, but I ~~believe~~ believe it was December 4th.

Mr. Gaunt: December 4th it is dated, yes.

Mr. Shibley: Am I not correct as to that?

Mr. Renwick: Exhibit 121 ~~is~~ is the letter to
the Hon. James Auld ...

Mr. Shibley: There's a previous --

Mr. ~~Renwick~~ ^{Renwick}: There is a previous ~~one~~ exhibit.

Mr. Gaunt: The one to Mr. Fleck is December 4. The
one to Mr. Auld is December 13.

Mr. Renwick: Which is that? ~~That one.~~

Mr. Shibley: The one preceding --

Mr. ~~Renwick~~ ^{Renwick}: 120.

Mr. Gaunt: 120.

Mr. Renwick: ~~120~~ ¹²⁰ in any event, Mr. Chairman, the
one of December 13 to Mr. Auld says: "This is to advise that
six copies of answers to the questions raised by Mr. R.F.
Nixon concerning Ontario Hydro ^{new} office building and one
copy of the agreement have been submitted this morning to
Mr. Carl E. Brannan, Secretary of the Cabinet." That's
December 13.

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8.10-8.15 pm
V.H.

Mr. Shibley: Mr. Renwick, if you will permit me, I believe I am correct that on December ^{the} 4/ immediately preceding exhibit indicates that a copy of the proposed answers to the questions were submitted to Mr. Fleck on that date, and I want to ask you, Mr. Manthorpe, if you can relate the timing of your discussion with Mr. Candy to the date of December 4?

Mr. Manthorpe: You mean the initial discussions with Mr. Candy ~~and~~?

Mr. Shibley: Yes.

Mr. Manthorpe: ~~It~~ about an interview? I would say it was around that time. There ~~was~~ several calls back and forth, but I would say that the first one was around that time.

Mr. Shibley: ~~At~~ ⁱⁿ any event, it was Mr. Candy who made you aware of the circumstance that a question had been put by Mr. ~~Nixon~~ ^{Nixon?}.

Mr. Manthorpe: As far as I recall, yes.

Mr. Shibley: Now then, what further was said by Mr. Candy to you on that first communication?

Mr. Manthorpe: There was very little said on the first communication. There were one or two calls ~~at~~ over a period of, I think, two days and whether in fact he mentioned the question on the order paper on the first occasion or on the second, I can't be certain. I know that ~~at~~ there was very little said. I simply stated that I wanted an ~~interview~~ interview to discuss the new building and the circumstances leading up to the contract. ~~He~~ He said he would call me back on the first occasion and that was about the extent of that conversation.

Mr. Shibley: Did he in fact call you back?

Mr. Manthorpe: He did, yes.

Mr. Shibley: When was that?

Mr. Manthorpe: It was either late the same day or early the next day. In fact, I seem to recall that at least on one occasion he left a message which I responded to. But ~~we~~ and we did set up, I think, ~~either~~ during the course of those conversations, we did set up a date which was subsequently changed.

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B.G.

M Mr. Shibley: Now, in the course of that second telephone conversation, did you discuss the ~~contract~~ contract referable to the building?

Mr. Manthorpe: No, I didn't discuss ~~that~~ at all.

Mr. Shibley: Neither did he?

Mr. Manthorpe: No.

Mr. Shibley: It was strictly a discussion to arrange a meeting.

~~Mr. Manthorpe: It was a discussion to arrange a meeting.~~

~~Mr. Shibley: It was a discussion to arrange a meeting.~~

H.-708 follows

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8.15-8.20 p.m.
M.F.

H - 100 - 1

(Mr. Shibley)

~~did he?~~

~~Mr. Manthorpe: Yes, I did.~~

~~Mr. Shibley: It was simply to set a date.~~

Mr. Manthorpe: It was simply - yes, to set a date.

Mr. Shibley: Now, then, did you, in fact, have a meeting

with Mr. Candy?

Mr. Manthorpe: Yes, I did.

Mr. Shibley: And I put it to you that that meeting

was held on Friday, December 15th?

Mr. Manthorpe: Which would be the day the answer was

tabled in the House?

Mr. Shibley: The reason I can be precise ~~is~~ ^{in fact} in fact,

I am trying to assist you, Mr. Manthorpe, is that I am in possession of a memorandum indicating that Jonathan Manthorpe of the Globe and Mail on Friday, December 15th - (it is wrongly dated as to year, 1973, we haven't yet reached that date) - visited Ken Candy to discuss the new head office building and the contract with Canada Square. Now does that help pinpoint the date?

Mr. Manthorpe: My recollections ~~are not~~ ^{are not} quite

conform to that because my recollection is that we had a meeting at around 10 o'clock in the morning and that it went on for perhaps an hour. The 15th was a Friday in which case the House would have sat in the morning, ~~and I think it was at 10~~ at 10 o'clock, and if that is the day when the answer was tabled I was in the House that day and so I would be inclined to think that the meeting was, in fact, two days before that.

Mr. Shibley: Did you have more than one meeting with

Mr. Candy?

Mr. Manthorpe: No, I only had one.

Mr. Shibley: And on the occasion of that meeting were

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H - 708 - 2

Mr. Shibley

you provided with any documentation?

Mr. Manthorpe: Yes, I was provided, as I recall, with two documents and a photograph of the new building.

Mr. Shibley: Yes, ~~and~~ Was it at that meeting that you declared a conflict of interest that might exist because of your association with Him McCallum?

Mr. Manthorpe: Yes.

Mr. Shibley: Now, because I think dates at this period of time ~~might~~ ^{may} be significant, I am going to produce ~~the~~ ^a document which was produced to me by Hydro dated May 8th, 1973. I don't have it reproduced for all members of the committee, but I will do so and I will read the whole of it at this time.

This is a memo to filing, public relations division; subject - media contacts:

"Jonathan Manthorpe, of the Globe and Mail on Friday, December 15, 1973" - ^{that is} ~~clearly~~ a wrong date, wrong year - "visited Ken Candy to discuss the new head office building and the contract with Canada Square. I was present." This being a memorandum by a Dennis A. Dack.

"While it was evident that Mr. Manthorpe had a reasonable amount of information, a general discussion took place on the steps taken ~~to~~ ^{to} select Canada Square and the suitability of Ontario Hydro's ~~contract~~ ^{contract} with the company. Mr. Manthorpe was provided with the attached 11-page document. He finally declared that a conflict of interest might exist in ~~this~~ case because of his own association with Him McCallum, our legal advisor, and that he might have to hand over his files to another reporter".

May I ask that that be made the next exhibit, Mr. Chairman?

Mr. Chairman: Yes, that will be exhibit 171. ~~What is it~~

Mr. Walker: What is the date on that again?

Mr. Shibley: That is dated May 8, ~~1973~~ 1973, and it

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(Mr. Shibley: is a memorandum from Dennis A. Dack to filing with copies to Mr. Gathercole, Mr. McCallum, and Mr. Durand, and attached to the memo is a document which is already an exhibit. It is given again a later date of December 6th, 1972, but this is the same outline as per the November 15, 1972, memorandum that was submitted to the Premier and others.

~~Mr. Chairman: You are right, it is 173. I am sorry.~~
exhibit 173.

~~M. R. Shibley: I introduced the memorandum only -----~~

Tape H -709 follows

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Mr. Chairman: You are right, it's 173, I'm sorry,

Exhibit 173.

Mr. Shibley: I introduced ^{the} memorandum only at this time because, as I say, the appendix to it that you were provided with was similar in content to a document already in exhibit, Exhibit 114. I am producing it to you, Mr. Manthorpe, to try to assist you to precisely identify the date on which you had the meeting in question.

Mr. Manthorpe: I would go back to my memory, which is that, ~~as I recall~~ as I recall, December 15, was the day that the answers were tabled in the House ^{and} ~~my~~ my meeting with Mr. Candy was perhaps two days before. And I say that because the afternoon of my meeting with Mr. Candy, I telephoned Mr. Fleck to ask him when the answers were going to be tabled.

Mr. Shibley: Yes, all ~~right~~ ^{right}. Now then, members of the committee who are more familiar with what was transpiring in the House may be of assistance here, I really feel that this period ~~in December~~ in December ~~may~~ may be an important period to get as precise a chronology of events as we can, so that

Mr. Chairman: Mr. Shibley, I was just looking at Exhibit No. 2 and I don't see ^{it appears} ~~there~~ my copy ^{but it} ~~that~~ has appeared on the clerk's copy; "Sessional Paper No. 112; Second Session, 29th Parliament, 1972; Tabled ~~December~~ 14, 1972; Roderick Lewis, Clerk, L.A." Now that's the contract itself and I have those records tabled, although I have forgotten, I suppose, it was tabled as part of the-

Mr. Renwick: The ^Votes and ^Proceedings would show when it was tabled.

Mr. Chairman: December 14, I believe, was a Thursday.

Mr. Shibley: Now then, Mr. Manthorpe, having regard for that information and the memorandum that Mr. Dack prepared, and I am quite prepared to have you say that Mr. Dack may be in error ~~as~~ as to a date, but is he in error or do you now accept his date as the date ~~of~~ of your meeting?

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Mr. Manthorpe: I don't accept his date of the meeting because the meeting took place two days before the answer, and the documents were tabled in the House.

Mr. Shibley: So your evidence then ^{is that} ~~was~~ the meeting was on December 12?

Mr. Manthorpe: I would say the 12th.

Mr. Shibley: All right. Now then, you had this meeting with Mr. Candy, and was Mr. Dack, in fact, present at that time?

Mr. Manthorpe: Yes, he was. ^{Yes, he was.}

Mr. Shibley: How was he identified to you?

Mr. Manthorpe: He was introduced to me simply by name at the beginning of the meeting.

Mr. Shibley: Without his function being described?

Mr. Manthorpe: No.

Mr. Shibley: Was anyone else present at the meeting?

Mr. Manthorpe: No, that was all.

Mr. Shibley: And what was said as between yourself, Mr. Candy and Mr. ~~Manthorpe~~ Dack?

Mr. Manthorpe: It was a fairly lengthy meeting in which, as Mr. Dack says in this memo, we dealt basically with details of the building and of the contract.

Mr. Shibley: When you say you dealt with details of the contract, did you investigate at that time the circumstances of the awarding of the contract to Canada Square?

Mr. Manthorpe: No, I didn't. I didn't get around to that. I discovered part way through ~~my~~ list of the questions that I wanted to ask that Mr. McCallum had been Hydro's lawyer in the contract negotiations and I told Mr. Candy at that time that I felt I would have to withdraw from the story, ~~and~~ so I didn't ask all the questions that I had had prepared.

Mr. Shibley: All right, so ~~that~~ you never reached the point in the interview when you might have asked, for example,

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(Mr. Shibley)

did the fact that the Premier is a friend of Mr. Moog have anything to do with this contract?

Mr. Manthorpe: I did ask that one question.

Mr. Shibley: You did?

Mr. Manthorpe: Yes, and Mr. Candy said, "No, it had no bearing on it at all."

Mr. Shibley: Did you ask any questions as to whether they had done everything necessary to permit a competition among those developers?

Mr. Manthorpe: No, I didn't get into any detail of this at all, because I didn't get to that in my list of questions.

Mr. Shibley: ~~In effect, you only got to the stage of reviewing the terms of the~~

Tape H-710 follows

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H-710 - 1

Manthorpe
(Mr. Shibley)

~~... because I didn't get to that in my list of questions.~~

MR. Shibley: In effect, you only got to the stage of reviewing the terms of the contract rather than the circumstances surrounding its making.

Mr. Manthorpe: And very basic materials ^{about} ~~the~~ the size of the building and the need for the building.

Mr. Shibley: Did you take up with them in any respect the content of the communication you had received from an anonymous telephone call?

Mr. Manthorpe: No, I didn't.

Mr. Shibley: You never raised any of those matters with him?

Mr. Manthorpe: No, I simply ~~did~~ raised the matter of the friendship between the Premier and Mr. Moog, but that was the only item on that side of the scale that I raised.

Mr. Shibley: Then you mentioned a communication with Mr. Fleck.

Mr. Manthorpe: Yes.

Mr. Shibley: ~~that~~ ^{day was it that you did?} What ~~day~~ ^{day}?

Mr. Manthorpe: ~~That~~ That was the same day. I rang Mr. Fleck when I got back to the office, which would have been about 11.30, ~~and~~ As far as I recall the meeting started ~~about~~ around 10 o'clock and went on till about 11 o'clock.

MR. Shibley: ~~So~~ You are talking about the evening?

Mr. Manthorpe: No, no, in the morning.

Mr. Shibley: Oh.

Mr. Manthorpe: I got back to my office here at around 11.30 and I placed a call to Mr. Fleck's office. He was either at a meeting or wasn't in, and he returned my call around mid-afternoon.

MR. Shibley: This would be on the morning of December 12?

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Mr. Manthorpe: This would be on the afternoon of the day of my interview with Mr. Candy.

Mr. Shibley: All right.

Mr. Manthorpe: ~~the~~ which was

Mr. Shibley: December 12.

Mr. Manthorpe: That would be the 12th.

Mr. Shibley: Did you ultimately reach Mr. Fleck?

Mr. Manthorpe: Yes, Mr. Fleck called me back.

Mr. Shibley: And what was your purpose in calling him?

Mr. Manthorpe: I wanted to know when the answer to Mr. Nixon's question was going to be tabled in the House, and I asked him and he said that he was still awaiting some information, some answers. I believe that the answer that was ~~finally~~ ^{finally} tabled was, in fact, a compendium of material from a number of ministries. Certainly the answer didn't wholly come from Mr. Candy. And he said he was still awaiting some of that information. But he said that he expected that the answer would be tabled within the next couple of days.

Mr. Shibley: Well, now, in respect of your last answer, are you ^usaying that Mr. Fleck told you that the answers were a compendium of information, or

Mr. Manthorpe: No.

Mr. Shibley: ~~was~~ was this a conclusion reached by you?

Mr. Manthorpe: No, he said he was still awaiting some more information.

Mr. Shibley: From?

Mr. Manthorpe: He didn't say where from.

Mr. Shibley: Why did you conclude, or how are you able to make the statement that the answer ^{was} ~~were~~ a compendium?

Mr. Manthorpe: Because when the answer was eventually tabled it included a statement from Mr. Snow's ministry about properties that the government leased which

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H-710 - 3

(Mr. Manthorpe)

were rented from some of Mr. ~~Morgan~~^{Moyle}'s other companies.

Mr. Shibley: I ~~was~~ see. All right.

~~Mr. Manthorpe: In turn,~~ were you, in turn, asked any questions ~~about~~ by Mr. Fleck?

Mr. Manthorpe: Yes, I was.

Mr. Shibley: What did he ask of you?

Mr. Manthorpe: He tried to find out what I knew about the Hydro building situation.

Mr. Shibley: Yes.

Mr. Manthorpe: I think ~~when~~ he asked, I don't remember his exact words on that, but he asked in fairly blunt terms, I think, ~~was there~~ "What have you got?" or something like that. I don't remember the exact words, but it was in that vein. It was a friendly ~~and~~

Mr. Shibley: And did you respond?

Mr. Manthorpe: ~~Ex~~ Yes, I attempted an off-putting remark like ~~2.4~~

Mr. Shibley: Like you are very good at doing!

Mr. Manthorpe: I think, as far as I recall, my reply was, "Yes, there are a lot of strange things about that agreement, *or some thing like that*"

Mr. Shibley: And what did he say?

~~Mr. Manthorpe: He said, "I don't know."~~

(Tape H-711 - 1 follows)

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M.R.

(Mr. Shibley)

~~...additionally?~~

Mr. Manthorpe: He said— well, I can't be precise about the words he used and the lead-up to it but he said, "I know Ellis-Don is unhappy."

Mr. Shibley: Yes. "I know that Ellis-Don is unhappy."

Mr. Manthorpe: Yes.

Mr. Shibley: Now did he indicate to you the manner by which he was aware that Ellis-Don was unhappy?

Mr. Manthorpe: No, he didn't and I knew better than to ask him.

Mr. Shibley: Yes. Now this conversation was as at December 12th and, according to your evidence, as of that date Mr. Fleck was already aware from some source that Ellis-Don was unhappy. Is that correct?

Mr. Manthorpe: That was what he said to me.

Mr. Shibley: Members of the committee, do I understand correctly that, in terms of answers to questions tabled in the House, that Mr. Fleck would have the function of assembling the information?

Mr. Bullbrook: If the question were of the Premier then I don't think there is any doubt that from an administrative point of view he would collate those replies ~~...~~

Mr. Shibley: Yes.

Mr. Bullbrook: ~~...~~ on behalf of the ~~former~~ Premier.

Mr. G. Hodgson: He would be responsible, I would think.

Mr. Shibley: And the replies that were provided were provided on December 14th?

Mr. Bullbrook: Well, that's the only thing that's conjectural that we can really establish for you, I think, Mr. Chairman, without any difficulty at all by just sending an emissary up to the clerk's ~~...~~ office.

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M.R.

Mr. Walker: I've got Hansard but Hansard is not helping. I thought there might be some →

Mr. Bullbrook: If this is really pivotal I think ←

Mr. Renwick: The Votes and Proceedings ^{will} ~~be~~ _✓

show what was tabled.

Mr. ^{Shibley}Chairman: I think it's important because ←

Mr. Bullbrook: Well, let's take a five-minute recess and find out ~~whether~~ the exact date. May I suggest that, Mr. Chairman?

Mr. Chairman: Yes. That's fine. We'll recess for five minutes.

H-712 to follow

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R.E.S.

H-22 712 - 1

Mr. Chairman: Ladies and gentlemen, if you'll reassemble, we will call the meeting to order.

And I note that ^{this} first appears on the order paper as question no. 27 on the 1st of December, 1972; Mr. Nixon (Brant), Enquiry of the Ministry. What is the name of the company which will build and subsequently lease to Ontario Hydro a new office building on the south-west corner of ~~XXXX~~ University Avenue and College Street? What are the terms of the lease agreement between ~~XXXX~~ ^{of the Province} and Ontario Hydro? What are the names of the other ~~tenders~~ and ~~XXXX~~ did they tender? Is Ontario Hydro in any way assisting ^{with} the financing ~~and~~ ^{the} construction of the new building? What is the appraised value of the land on which the ^{new} building ~~is being~~ ^{will be} sited? Will ~~the~~ space in the building be rented to companies other ~~than~~ ^{than} Ontario Hydro, and, if ~~any~~ so, what amount of floor space will be so rented? Is the company in question related ~~to~~ financially or by interlocking officers and/or directors to Swiss ~~XXXX~~ ^{GRANVILLE} Holdings Limited or ~~XXXX~~ ^{XXXX-XXXXXX} Building Limited? What companies of which Mr. G. W. Moog is an officer or director leased building space to the government or its agencies? ~~XXXX~~ Mr. Moog, ~~are~~ any of ~~the~~ the above companies of ~~which~~ which he is an officer or director or the company building the new Ontario Hydro building, contribute funds to the Progressive Conservative Party of Ontario, and if so, how much?

Now, that first appeared in the order paper for December 1; it was a Friday, and it was ~~Question 27~~ ^{votes and} then in the records of ~~XXXX~~ ^{XXXX} Proceedings of Thursday, December 13, 1972; it simply says, "Return to Question 27 by Mr. Nixon (Brant), (No. 112)."

And that's the only item that I can see in my quick summary of it that appears in the records of Votes and Proceedings on December 14, which was a Thursday.

Mr. Shibley: All right.

MR. Bullbrook: Excuse me, Mr. Shibley. Before you

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(Mr. Bullbrook)

go on, I would ask that you might just for the record introduce
counsel to the committee, ~~Mr. Chairman~~ Mr. Chairman.

Mr. Chairman: Yes, I will. Thanks for reminding
me.

We now have Mr. E.M. Lane ~~is~~ with us. ~~Mr. Lane~~
~~Mr. Lane~~ Would Mr. Lane just stand up so we'll know who
you are? ^{He} ~~Mr. Lane~~ appears as counsel for Mr. Manthorpe. I
understand you were ~~here~~ here earlier, Mr. Lane, but I
didn't realize that you were appearing as counsel.

Thanks Mr. Bullbrook Mr. Shibley

Mr. Shibley: All right. Just so as to recap. for
the assistance of the committee, Mr. Nixon's questions
were tabled, put on the order paper on December 1, 1972.
There was a conference between Mr. Manthorpe and Mr. Fleck
~~Mr. Fleck~~ By telephone.

Mr. Shibley: I am sorry. On December 4, Mr. Candy
prepared suggested answers and submitted them to Mr. Fleck
on December ^{em} ~~4~~.

~~Mr. Manthorpe~~ ~~Mr. Manthorpe~~ had an
interview with Mr. Candy; on December 12 14 ~~as~~ the questions
were answered. Sometime in the early part of December or
in November, there was also a communication between Mr. Cronyn
and Mr. Fleck. That communication preceded this communication
with Mr. Smith, being the now famous telephone call.

Mr. Renwick: Mr. Chairman, just because it seems
to me to be so important, I just checked the Mansard and
Mr. Winkler tabled the answers to question ~~what was the date~~
~~22~~ no. 27, just before 3 ~~00~~ o'clock on December 14. I don't
know whether that would help Mr. Manthorpe to confirm that
December 12 would be the date on which he would have the
meeting with Mr. Candy.

Mr. Manthorpe: I couldn't confirm for sure that
it was the 12th, but my recollection is that ~~my~~ my interview

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H-712 - 3

(Mr. Manthorpe)

was some two days before the answer was tabled.

MR. Shibley: All right. AS I say, I thought it important to establish ~~the~~ the chronology as much as it can be established during that first two-week period of December, ~~particularly as it led to, or it culminated in.~~

(Tape H-713 - 1 follows)

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M.T.

H-713-1

(Mr. Shibley)

particularly as it led to, or it culminated, in the tabling of answers to the questions posed by Mr. Nixon in the House. Now then, with respect to those answers, again I am departing ^{from examining} ~~from examining~~ the witness, can the members of the committee assist me, were the answers ^s that ^e were tabled in the House the same as those set forth in Exhibit ~~-----~~

Mr. Bullbrook: 121 you are thinking of?

Mr. Shibley: 120 I believe -- the same as were submitted to Mr. Fleck under cover of a letter dated December 4, which is Exhibit 120? What I would like to know, frankly, and I suppose this can also be obtained from Hansard, but I think it should be incorporated by reference or ~~a~~ otherwise made a matter of record in the proceedings of this committee, is whether the answers in the House on December 14 in any way reflected information available to Mr. Fleck respecting the complaints of Mr. Smith, as transmitted to him through Mr. Cronyn.

Mr. Bullbrook: Well, I just want to clarify one thing in my mind, and I was just speaking to my colleague, Mr. Gaunt, about this, could you help me, ~~was the complaint of Mr. Cronyn~~ that he mentioned Mr. Smith? I thought he just mentioned certain factual complaints.

Mr. Shibley: No, I went through that evidence --

Mr. Bullbrook: Okay

Mr. Shibley: -- And he mentioned Mr. Smith and he mentioned ~~seriatim~~ a number of factual complaints including the shortness of time allowed, etcetera, and I think I read the portion of the transcript that was material. And what I am ~~g~~ concerned to ascertain and make a matter of record of the proceedings before this committee is whether that information was part of the information ~~g~~ which was table'd ~~xxx~~ in the House by ~~Mr.~~ whomever on December 14, it now being clear that Mr. Fleck was aware of Mr. Smith's complaints on the 12th, if this witness's memory of events is taken as correct,

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H-713-2

(Mr. Shibley)

And I am taking it that the information which Mr. Fleck had as to the complaints by Ellis-Don were those that were communicated to him by Mr. Cronyn and as ~~the information was provided to members of the House referable to questions raised by Mr. Nixon. I gather that Mr. Fleck had responsibility for collecting that information. He had available to him at that time the proposed answers submitted to him under cover of Mr. Gathercole's letter of December 4, the proposed answers to Mr. Nixon's questions. Those proposed answers are similarly dated December 4. He apparently also had already had a meeting with Mr. Cronyn prior to the 14th, during which meeting Mr. Cronyn outlined to Mr. Fleck certain of the factual premises upon which Mr. Smith of Ellis-Don was complaining, that that company had not had a fair run at this contract. We are now...~~ outlined by Mr. Cronyn to this committee ~~at~~ earlier this afternoon. I don't know whether I am making myself completely clear --

Mr. Chairman: I'm sorry, I am not following exactly, but I wasn't paying that close attention.

Mr. Shibley: Well, let me go back on it. On December 14, certain information was provided to members of the House referable to questions raised by Mr. Nixon. I gather that Mr. Fleck had responsibility for collecting that information. He had available to him at that time the proposed answers submitted to him under cover of Mr. Gathercole's letter of December 4, the proposed answers to Mr. Nixon's questions. Those proposed answers are similarly dated December 4. He apparently also had already had a meeting with Mr. Cronyn prior to the 14th, during which meeting Mr. Cronyn outlined to Mr. Fleck certain of the factual premises upon which Mr. Smith of Ellis-Don was complaining, that that company had not had a fair run at this contract. We are now...

Tape H-714 follows

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M.S.

(Mr. Shibley)

~~certain of the factual premises upon which Mr. Smith of Ellis-Don~~
~~WAS COMPLAINING THAT~~
~~that company had not had a fair run at this contract.~~ We
are now, I think, able to pinpoint the timing of that meeting,
although Mr. Cronyn could not do so, in terms of December 14.
It was necessarily prior to that date, because on December 12,
Mr. Fleck said to this witness, Mr. Manthorpe, that he knew that
Mr. Smith of Ellis-Don was complaining.

Mr. Manthorpe: Mr. Fleck only said to me that
Ellis-Don was unhappy.

Mr. Shibley: He said to you that he knew that
Ellis-Don was unhappy, is that correct?

Mr. Manthorpe: Yes.

Mr. Shibley: So that, from that piece of evidence
we may infer that the communication between Mr. Cronyn and Mr.
Fleck preceded, in point of time, December 12 and a fortiori
preceded the report to the House of December 14. I think
it's fairly important that if that conclusion is correct, that
we understand it to be so, if there's any reason for questioning
the correctness of that chronology then I would like it developed,
and I would also like to know whether the answers tabled in the
House in any way reflected the information known to Mr. Fleck,
that Ellis-Don was unhappy and in particular, the information
provided by Mr. Cronyn to him in that respect.

Mr. Bullbrook: Well, may I say to you that, of
course, it's quite simple for us to make available by way of record
the answers that were ---

Mr. Shibley: I'm sure it is.

Mr. Bullbrook: --- given in the House.

Mr. Chairman: Well, let me clarify that. Now,
evidently I've had those close to me here all the way along. I
pointed out to you earlier that the Clerk's copy had on his copy
what we've been referring to as Exhibit number 2.

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M.S.

Mr. Chairman: This, which I read to you earlier, is

天南地北，各處皆有。

Sessional paper?

Now, just speaking to Mr. Holtby, he tells me that they make it a sessional paper. The Clerk's office has the option of doing that if it's a bulky document. So, it does not all have to appear in Hansard and that's why we can't find it in Hansard. But it is referred to as a sessional paper and it's marked "Return to question number 27". And I've just been leafing it over and the first page appears to be almost a copy of what Hydro sent, but it seems to differ from that point on. But this is the copy of the sessional paper as filed. Am I right on that, Mr. Holtby?

Mr. Bullbrook: Mr. Chairman, you would realize

Mr. Chairman: No, they don't have that. I think

all we have is the copy of the contract. Now, why Paul Moore has been working from this one, rather than what we have, I don't know.

Mr. Renwick: Mr. Chairman, all I'm saying is that if, in fact, we want to be satisfied as to whether or not the draft answers which are exhibited with Exhibit 120 are the same as what were tabled in the House, the only way to be completely accurate is to have it done against the actual sessional paper in the possession of the Clerk.

Mr. Shibley: Could that be produced to Mr. Bell, and I will ask him to literally compare it word for word with the material which Mr. Gathercole provided to Mr. Fleck on December 4?

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8:50 - 8:55 pm.
M.S.

(Mr. Shibley)

And also we will compare it against the ~~revised~~ transcript of evidence provided by Mr. Cronyn this morning, as to what he had to say to Mr. Fleck.

Mr. Renwick: No problem, as I understand it.

It is available in the Clerk's office.

Mr. Chairman: Mr. Holtby is nodding ~~and~~ his

head up and down that it should be available to us. But we'll ask, rather than trying to do it here, I say the first page looks to me to be similar, but the information is set up ~~separately~~ differently from there on, but it may be the same information. So, we'll ask to leave that in Mr. Bell's hands to make that comparison when he ~~needs~~ arranges to get the original from Mr. Holtby.

~~Mr. Shibley: See transcript from Mr. Holtby.~~

~~That finish up the transcript from Mr. Holtby.~~

~~Mr. Fleck: Now are you going to go back and look thinking that~~

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8.55 to 9.00 pm

DT

(All right.)
Mr. Shibley: Now, Mr. Manthorpe, just ^{to} finish

with the discussion on December 12 between yourself and Mr. Fleck. ~~Are~~ ^{Are} you unequivocally clear in your thinking that it was December 12 that you had that conversation with him?

Mr. Manthorpe: It was certainly the afternoon of the day that I had the interview with Mr. Candy.

Mr. Shibley: And are you unequivocally clear that that interview took place on December 12?

Mr. Manthorpe: I may say, in just thinking about it now, the date, the 11th, comes to my mind. It was either the 11th or 12th, either the Monday or the Tuesday. I can't ~~xxx~~ be certain on that but it was either the Monday or the Tuesday.

Mr. Shibley: Now, I am concerned because I don't want to leap to conclusions, particularly in face of a memorandum from Hydro's records that suggests that the interview was on the 15th; but you say that that memo is wrong as to the date of the meeting?

Mr. Manthorpe: My recollection is--and I am certain of this--that the meeting was two days, at least, before the tabling of the documents.

Mr. Chairman: ^{The} Hydro memorandum was dated the 8th of May.

Mr. Shibley: Yes, it is dated the 8th of May but it references the fact that Jonathan Manthorpe of the Globe Mail on Friday, December 15, 1972, visited Ken Candy.

Mr. Walker: Do we have Mr. Candy's diary?

Mr. Shibley: We were only provided with photocopies of those pages on which Hydro considered relevant information ^{was} ~~was~~ set forth and I don't have December 12th ~~and~~. I am going to now ask for Mr. Candy's diary as for that date.

Mr. McCallum: What date is that, sir?

Mr. Shibley: December 12th, 1972, or the 11th. In fact, I would like ^{the} ~~the~~ pages out of his diary for the whole of December, 1972.

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DT

Mr. McCallum: While you are there, if you haven't got the 12th, have you got the ⁵1~~2~~th, which is the date mentioned on the memo that you ~~have~~ put in as an exhibit?

Mr. Shibley: I have the 15th and there is nothing recorded on December 15. It is, in fact, provided only because it is part of a three-day diary page and on the 14th ^{is} a notation, "Questions answered in Legislature today re H.O. building." But there is no entry on the date of the 15th indicating any meeting with Mr. Manthorpe on that date. I might say, and ~~because~~ Mr. Genest has agreed, that these documents can be taken as official. ~~and~~ to complete the picture, it appears from the notes of ^{the} diary that I have received, of Mr. Candy, that on December 7th he called Mr. Fleck at 8.15 ~~and~~

(H-716 to follow)



(Mr. Shibley)

H-716-1

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E.M.

on December ~~the~~ 7th he called Mr. Fleck at 8-15 and on December the 13th, without indicating the time of day, called Jim Fleck. Now, then, it would be interesting to see the other pages of the diary for that month.

Mr. McCallum: Yes, I have noted your request and we will get it right away for you.

Mr. Shibley: Now, Mr. Manthorpe, after this initial communication with Mr. Fleck, did you have any further communication with him?

Mr. Manthorpe: I don't believe so.

Mr. Shibley: And after the conference with Mr. Candy, at which you were provided with the documentation, did you have any further discussion or meetings with him?

Mr. Manthorpe: No.

Mr. Shibley: What was the next participation on your part referable to the investigation of the Hydro head office building?

Mr. Manthorpe: I went and searched the titles of the other companies who tendered for the building.

Mr. Bullbrook: Does he mean corporate ^{records} ~~search~~?

Mr. Manthorpe: ~~the~~ ^A corporate search ^{at} the companies

branch-
~~search~~

Mr. Shibley: When you say the other companies, what companies? ~~too~~

Mr. Manthorpe: Well, Ellis-Don, Horizon and Y. and R.

Mr. Shibley: Yes. Why did you do that?

Mr. Manthorpe: I was trying to find out who had been calling me. My recollection is that I did this on the

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H-716-2

2(Mr. Manthorpe)

day after my interview with Mr. Candy and before the documents were tabled, as I did not know who the other companies were who had tendered till my interview with Mr. Candy.

Mr. Shibley: Did that investigation assist you?

Mr. Manthorpe: Not really.

Mr. Shibley: In other words, you were continuing your ~~investigating~~ investigation notwithstanding that you broke off discussion with Mr. Candy because ~~from~~ I was putting the question to you ^{that} you were continuing, notwithstanding that you thought a conflict might exist?

Mr. Manthorpe: I intended to gather that information and the answers before handing over my file. I didn't intend to conduct any further interviews.

Mr. Shibley: Yes. What was your ~~next~~ next participation?

Mr. Manthorpe: I think my next participation was to go and see my editor on the day the answers were filed and to hand over the file and to tell him I didn't feel that I could continue with it.

Mr. Shibley: You conducted no further interviews with any witnesses?

Mr. Manthorpe: No.

Mr. Shibley: And made no further investigations?

Mr. Manthorpe: No.

Mr. Shibley: You simply reported in to your editor?

Mr. Manthorpe: Yes and handed in my file.

Mr. Shibley: Have you a file now present in your possession?

Mr. Manthorpe: No, I don't.

Mr. Shibley: Would you produce it, please?

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Mr. Manthorpe: I can't.

Mr. Shibley: Why not?

Mr. Manthorpe: I don't have it.

Mr. Shibley: Who has it?

Mr. Manthorpe: Probably Mr. McAuliffe.

Mr. Shibley: All right. Would you please make it known to him ~~that~~ that when he attends to give his evidence that we wish that file produced?

Mr. Manthorpe: I can convey that wish.

Mr. Shibley: Yes.

Mr. R. G. Hodgson: May we have the identity of the editor he handed the file to?

Mr. Shibley: Who was the editor to whom you delivered your file?

Mr. Manthorpe: My city editor, Mr. Ted Moser.

Mr. Shibley: And what documents did the file contain?

Mr. Manthorpe: It contained a number, ~~of~~ ^{to} ~~it~~ It contained a document Mr. Candy had given me; it contained a Xerox copy of the answer tabled in the House; it contained a ~~number of clippings from the Globe and Mail, the files of mine and some handwritten notes of mine from~~

(Tape H-717 follows)

June 21/73
9.05 - 9.10 p.m.
R.E.S.

H-717 - 1

(Mr. Manthorpe)

... ~~in the House, contained~~ a number of clippings from the Globe and Mail files and some notes of mine and some handwritten notes of mine from my research at the ~~company's branch~~ ^{company's branch}.

Mr. Shibley: Yes. Other ~~a~~ than the notes of yours at the research ^{at} branch, therefore, the only original material, so to speak, in your files ~~would~~ be other notes that you had compiled. Is that right?

Mr. Manthorpe: Yes.

Mr. Shibley: And do those notes relate to your investigation ^{into} the head office building?

MR. Manthorpe: Yes.

MR. Shibley: Can you be precise by memory as to what ~~was~~ the notes would cover?

Mr. Manthorpe: I remember what they cover, yes.

Mr. Shibley: Well, what did they cover?

Mr. Manthorpe: I don't think I would be prepared really to tell the committee that.

Mr. Shibley: Why can't you tell the committee what was in the notes?

Mr. Manthorpe: Because they covered a number of things that I ~~have~~ ^{heard} which were never substantiated and which never ~~was~~ appeared in any written form in the newspaper.

Mr. Shibley: All right. So that, are you telling me that they are notes of areas of enquiry that did not lead you to any finding which could be properly ~~substantiated~~ ^{SUBSTANTIATED}.

MR. Manthorpe: They were ~~some~~ notes of things which I never proved to my own satisfaction.

Mr. Shibley: Yes, and are you telling this committee that the mere fact of the enquiry being published could be prejudicial to certain people?

Mr. ~~AM~~ Manthorpe: I'm sorry, I don't understand what you mean.

MR. Shibley: Are you suggesting to this committee that the reason you don't want those notes produced is that

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R.E.S.

H-717 - 2

(Mr. Shibley)

the mere fact you were investigating ^{ing} in certain areas without coming up with any proof, that the publication of the investigation in itself might prove damaging to certain individuals?

Mr. Manthorpe: Certainly the publication of my notes would be extremely unfair!

Mr. Shibley: All right. And I gather that the information contained in those notes would be of no probative value respecting the issues with which this committee is concerned?

Mr. Manthorpe: I ~~don't~~ believe so; I don't believe so.

Mr. Shibley: Are you prepared to have those notes produced to me as committee counsel so that I might satisfy myself in that respect?

Mr. Manthorpe: I don't believe I would be, no, sir.

Mr. Shibley: All right. You are asking us therefore to accept your representation as to whether the notes contain relevant material.

Mr. Manthorpe: Indeed I am, yes. ~~It is~~, after all, my job.

Mr. Bullbrook: ~~It is~~, after all, his job too!

Mr. Shibley: Mr. Manthorpe, I don't ever intend to put the matter to an issue unless and until I think it's necessary to put it to an issue as to whether this committee will compel production of material or the answers to questions on the part of any member of the press. On the other hand, if it appears that the press is in possession of evidence which is probative, then you appreciate that there is no privilege which attaches to the situation of a member of the press who is in possession of such evidence. ~~So~~ Do you understand that?

Mr. Manthorpe: Oh, I understand what you are saying, yes.

Mr. Shibley: Yes. You've been this route before!

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H-717 - 3

(Mr. Shibley)

You understand?

Mr. Manthorpe: I understand what you're saying.

MR. Shibley: All right. Well, let's carry on for the time being, because you are not, yourself in possession of the documents in question.

Aside from disclosing names of person^s, what do the notes contain?

Mr. Manthorpe: With all respect, Mr. Shibley, I'd rather not answer the questions on that subject.

Mr. Shibley: I know you'd prefer not to answer. What I want to know is what was generally the subject of the investigation which those notes cover?

(Tape H-718 - 1 follows)

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M.R.

(Mr. Shibley)

~~..What I want to know is what was generally the subject
of the investigation which these notes covered~~

Mr. Manthorpe: Again, with respect, I wouldn't be even prepared to discuss that.

Mr. Shibley: Do these notes or the information disclosed by them reveal anything referable to the issues as defined for determination by this committee?

Mr. Manthorpe: Not in my judgement, no. They were rumours which I found to be unsubstantiated.

Mr. Shibley: Rumours?

Mr. Manthorpe: Rumours and/or statements.

Mr. Shibley: And when you say you found them to be unsubstantiated, how did you ascertain that?

Mr. Manthorpe: I checked them out to the best of my ability.

Mr. Shibley: All right.

Mr. Chairman: Mr. Shibley, I can appreciate him not wanting and I don't think this committee would want information ^{or} rumours, as you call them, not information ^A to be published and I can appreciate your ~~reasons~~ for not wanting to produce them for that reason.

I am ~~am~~ somewhat at a loss, however, to understand why you would not be content to let Mr. Shibley ~~see~~ that information over. I think he has as much respect for unfounded rumours or as little respect for unfounded rumours as you yourself would have, and ~~that he would not want to see these documents~~ like to know your reasons ^{see} for not letting him ~~to see these~~ these documents.

Mr. Lane: Perhaps, Mr. Chairman, if I could interject, with respect, on behalf of my client.

Mr. Chairman: I wonder if you could come forward and use the microphone, please.

Mr. Lane: I suppose, sir, that our position is this: The witness has testified that he now does neither have

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 3:10 - 9:15 p.m.
 M.R.

(Mr. Lane)

nor have control of the file of documents to which you are referring. Perhaps the committee might be prepared to permit the matter to remain in abeyance until such time as the person or persons who now does have some control over that file, namely the next witness scheduled, has had an opportunity to consider the very reasonable request ^{that} Mr. Shibley has made.

Mr. Shibley: That's fine.

Mr. Lane: Perhaps it could just remain in abeyance until that time. ^{It's} ~~That's~~ slightly premature I suggest.

Mr. Shibley: Thank you very much, Mr. Lane.

I think that is very helpful. I'm assured by your statement that the next witness will have the documents in his possession because I don't want to chase down every executive and editor within the offices of the Globe and Mail to ~~catch~~ catch up with the file.

Mr. Manthorpe: I think I could say one thing which might answer Mr. MacBeib's question and that is that both the ~~initial~~ initial information and the subsequent investigations ^{based} on my part into ~~the~~ ^{these} thing were on ~~absolute~~ confidence and on an understanding of confidence; and that confidence, in my mind, still ~~remains~~ remains and I'm not prepared to breach it.

Mr. Shibley: All right. Well, Mr. Manthorpe, let's understand one another:

At the moment I would not be particularly interested in your source, which I understand has always been a sensitive point with the press. What I am more interested in is content.

Mr. Manthorpe: Yes.

Mr. Shibley: ^{If} the content becomes material, then I will ask you your source because I don't hold with the proposition asserted by the press that there is any privilege attaching to your right to withhold that information. But I think the matter may prove academic. At the moment I am only interested in content. If you wish to have the file, for example,

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M.L.

(Mr. Shibley)

edited as to the source of the information so as to permit me to satisfy myself, that in content it is truly irrelevant or unproven, then ~~as before~~ I think, the whole exercise may well become academic. I think, Mr. Lane we understand one another.

Mr. Lane: Precisely.

Mr. Chairman: And some of us hope that it will be purely academic.

Mr. Shibley: Well, Mr. Chairman, I'm presuming to be ^a responsible reporter and when he says that ~~at~~ they were mere rumour and not proven, as long as I can in turn report that to this committee I think that may well be the end of the matter.

Now, if we may go on, Mr. Manthorpe, following your initial telephone conversation with Mr. Smith ~~and after the second conversation with him~~ ...

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9:15-9:20 pm

C.B.

(Mr. Shibley)

~~following your initial telephone conversation with Mr.~~
~~Smith~~ and after the second communication with him, did
you make notes of the conversation?

Mr. Manthorpe: I made brief notes of the
first conversation with Mr. Smith. I did not make notes
of the subsequent conversations.

Mr. Shibley: Having made those notes, did you
thereafter expand upon those notes or in any way reproduce them
in typed or other form to constitute some more permanent
record?

Mr. Manthorpe: No, I didn't. I didn't keep even
the initial notes.

Mr. Shibley: I see. So that you have nothing
of a ~~documentary~~ documentary nature which might assist this
committee as to ~~precisely~~ precisely what he reported to
you and, in particular, precisely what he reported to you
as having been the content of the telephone communication
to him?

Mr. Manthorpe: No.

Mr. Shibley: Then having turned your file over
to the editor, do I take it that Mr. McAuliffe was given
responsibility for it?

Mr. Manthorpe: No, he wasn't.

Mr. Shibley: What happened?

Mr. Manthorpe: I can't really assist you with
that. I am not certain.

Mr. Shibley: There is a void?

Mr. Manthorpe: I handed over my file and so
far as I was concerned ~~then~~ that was it.

Mr. Shibley: Have you never discussed the
file with Mr. McAuliffe?

Mr. Manthorpe: Indeed I have.

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9:15 - 9:20 pm

C.B.

Mr. Shibley: All right. What was the next step taken by you in that respect?

Mr. Manthorpe: I did, on one or two occasions in the early months of 1973, ring my city editor and ask him if anything was being done about it. I got no clear answer. The matter came up again, I would guess, shortly after the House sat in March when Mr. Nixon, ~~and~~ⁱⁿ his response to the Throne Speech as I recall, brought up the whole matter. As I recall he had had his staff do some kind of analysis of the material that had been tabled on December 14th of the previous year, and he based a large part of his ~~response~~ ~~to the Throne Speech~~ response to the Throne Speech.

Mr. Shibley: Yes.

Mr. Manthorpe: ~~on that~~, and there ~~was~~ were subsequent ^{by} questions asked in the House. At some time towards the end of March, I believe the House sat on the 20th of March, and so sometime in the twenties of March, my city editor called me and asked me if I thought there was a story in the Hydro building contract, and I said, "Yes, there is, I'm sure of it."

Mr. Shibley: You've been proved right.

Mr. Chairman: ~~to be sure, there was a story.~~ getting a story.

Mr. Shibley: That's what ~~Mr. Chairman~~ Chairman.

I don't want to be misquoted in that regard. You told ~~then~~^{him} you thought there was a story?

Mr. Manthorpe: Yes. I think he said on that occasion, although I think he may have phoned me the same day

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C.B.

(Mr Manthorpe)

or the next day; ~~was~~ I talk on the telephone a lot with my editor — I'm sorry, he may have said during that converstaion or in one^{or} a few hours, or the next ~~the~~ day later, that he was giving the file to Gerry McAuliffe. I believe Mr. McAuliffe then rang me and asked if we could get together to go through the file together.

Mr. Shibley: The members are having difficulty hearing.

Mr. Manthorpe: Oh, I'm sorry.

Mr. Shibley: All right. You rang and said could you get together, and did you get together?

Mr. Manthorpe: Yes, we did. We got together | - | it would be around April 2, probably, I ~~we~~ would think.

Mr. Shibley: I see. Now, then, on April 7 you met ~~any~~

Mr. Manthorpe: Second.

Mr. Shibley: Of 1973?

~~Mr. Manthorpe: Yes, 1973.~~



H 720 to follow

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M.T.

H-720-1

~~Mr. Shibley~~

~~Mr. Manthorpe~~

~~Mr. Shibley~~

Mr. Manthorpe: 1973.

Mr. Shibley: ¶ you met, and did you communicate to Mr.

McAuliffe certain information?

Mr. Manthorpe: Yes.

Mr. Shibley: What did you tell him?

Mr. Manthorpe: I told him about the calls I had received from someone ^{whom} I believed to be Mr. Smith.

Mr. Shibley: In the interval, had you received Mr. Smith's letter of congratulation?

Mr. Manthorpe: What happened was that when I went down to the main office to talk with Mr. McAuliffe I looked in my letter box there and the letter from Mr. Smith was in the letter box at that time, so I was able to talk with some authority to Mr. McAuliffe.

Mr. Shibley: All right. So then you told him of the content and you ~~were~~ were working by memory at this juncture, were you?

Mr. Manthorpe: Yes.

Mr. Shibley: In respect of what you told Mr. McAuliffe, did you tell him that Smith had said he had received a call?

Mr. Manthorpe: Yes.

Mr. Shibley: Would you now tell us ^{at} precisely as you can, what did you tell McAuliffe?

Mr. Manthorpe: I told Mr. McAuliffe that Mr. Smith had told me that he had received a call from someone close to the Premier's office who had told him to keep quiet.

Mr. Shibley: So that you repeated to him, in fact, what Mr. Smith had told you and nothing more and nothing less?

Mr. Manthorpe: Well, I went on to talk about the other things that Mr. Smith ~~to~~

Mr. Shibley: I am just now directing your mind, Mr. Manthorpe, to ~~to~~



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M.T.

H-720-2

Mr. Manthorpe: Oh no, I told him simply that.

Mr. Shibley:—the recital of what Mr. Smith said in respect of that one call.

Mr. Manthorpe: No, I told him simply that.

Mr. Shibley: Did you say to him that Mr. Smith had said he had been threatened in the course of that call?

Mr. Manthorpe: No.

Mr. Shibley: Did you say to Mr. McAuliffe that Mr. Smith said he had been threatened that if he didn't keep his mouth shut he would never get another government job?

Mr. Manthorpe: No, simply that he had been told to keep quiet.

Mr. Shibley: Just told that he should be quiet?

Mr. Manthorpe: Yes.

Mr. Shibley: All ^{right} ~~right~~ Did you make any reference to the fact that Mr. Smith was a contractor engaged upon government projects?

Mr. Manthorpe: I don't believe I did, although I knew that at the time.


Mr. Shibley: Yes, all right. What else then did you tell Mr. McAuliffe?

Mr. Manthorpe: Basically what Mr. Smith had told me about his negotiations with Ontario Hydro.

Mr. Shibley: I see, just the shortness of time that he had?

Mr. Manthorpe: Yes, the shortness of time, the fact that he felt or he had been given to understnad that Mr. Moog's architects had been working on detailed ^{drawings} ~~drawings~~ some weeks before the final date for the closing of tenders, and that Mr. Smith had been told he could put in a proposal but he shouldn't work too hard at it.

Mr. Shibley: Was there anything else that you related to him?



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Mr. Manthorpe: I went through the documents that I had obtained from Mr. Candy and ~~the~~ ^{4:24 were} table in the House. I think I went through a little of Mr. Moog's history with him; and I went through my notes from the company searches.

Mr. Shibley: ^{When} ~~you~~ you say you ~~we~~ went through Mr. Moog's history, what history are you talking about?

Mr. Manthorpe: Well, I had obtained some clips from our files pertaining to Mr. Moog, dealing mostly with the construction of the OISE building.

Mr. Shibley: Yes. Now then, what, if anything, did McAuliffe say to you on that occasion?

Mr. Manthorpe: He was thoroughly impressed with the...

Tape H-721 follows

H-721 - 1

(Mr. Manthorpe)

... ~~he was~~ fairly impressed with the ~~fact~~ he was enthusiastic about the story.

MR. Shibley: Yes.

Mr. Manthorpe: I advised him to get in touch with Mr. Smith. He said he would do that, ~~and~~ and that was really the sum total of the thing. It wasn't a very long meeting, maybe half an hour at the most.

MR. Shibley: All right. Now, did you have anything further to do with the investigation by the Globe and Mail following that meeting with McCullough?

Mr. Manthorpe: No.

MR. Shibley: And have you ~~any~~ anything further to add to assist this committee respecting ^{the} ~~matters~~ in ~~a~~ issue before it?

MR. Manthorpe: I don't believe so, no.

MR. Shibley: I have no further questions.

MR. G. Hodgson: Mr. Chairman, I'd like to ask some questions.

Mr. Chairman: Yes.

MR. G. Hodgson: You mentioned the search of the company branch files.

Mr. Manthorpe: Yes.

MR. G. Hodgson: Does that have any relationship to the questions asked by Mr. Nixon? or did you convey to Mr. Nixon in discussion or by phone call or by ^{any} other method anything in contribution towards his questions?

Mr. Manthorpe: No, certainly not, sir.

MR. G. Hodgson: Did you talk to any other ~~member~~ member of the Ontario Legislature about this matter between the first call of Mr. Smith and the 15th of December?

Mr. Manthorpe: I did talk to Mr. Nixon when I realized that he had the question on the order ~~paper~~ paper, and that would be around the 7th or 8th of December. I hadn't ^{that} realized/the question was on the order paper and I asked him

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H-72: - 2

(Mr. Manthorpe)

what had prompted him to put it on the order paper.

MR. G. Hodgson: Did he give you an answer to that?

Mr. Manthorpe: He simply said that he was just a little uneasy about it. He had no information.

Mr. G. Hodgson: Did you talk to any other member of the Legislature?

Mr. Manthorpe: No.

Mr. G. Hodgson: Did you talk to anybody in the political parties or enquire of them? I'm thinking in particular, for instance, ~~reference made to~~ reference made to high political, or high official in the party or close to the party, as referred to in the article. ~~you~~ you check that out?

Mr. Manthorpe: I only attempted to check it out with Mr. Smith. I didn't attempt to check it out ~~anybody~~

Mr. G. Hodgson: ~~anybody~~ anybody in the Conservative Party to ask them?

Mr. Manthorpe: No, I didn't.

MR. Bullerwood: Well, is Mr. Fleck a Conservative?

Mr. G. Hodgson: I couldn't tell you!

Mr. G. Hodgson: You could ask you

Mr. G. Hodgson: Yes, early in your testimony,

Mr. Manthorpe, you mentioned a telephone conversation ~~to~~ to Mr. Smith, when you asked him about certain information, who it might be that ~~was~~ talking. ~~now~~ you said you had named certain people within the party ~~that were~~ ^{within} in the government, that you thought could have relayed this information, or relayed the, you know, that if you don't ~~now~~ conform you won't get any more contracts.

Mr. Manthorpe: No, I didn't say that, sir.

MR. W. Hodgson: Something similar.

Who were the people that you mentioned over the

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(Mr. W. Hodgson)

phone and Mr. Smith said, no, it wasn't those people that had phoned him?

Mr. Manthorpe: Well, again, with respect, sir, I don't think it would be proper for me to name people whom I named in terms of...

Mr. W. Hodgson: I think it is most proper and since you have mentioned them in your testimony, you said you asked if certain people had phoned Mr. Smith, and I'd like to know who those people are that you named.

Mr. Manthorpe: Well...

Mr. W. Hodgson: All right, Mr. Shibley?

Mr. Shibley: Yes, I must tell you that I have a certain amount of information in this area and I don't think it's protective, and I think the damaging effect far ^{outweighs} any benefit this committee may obtain.

Mr. W. Hodgson: I will withdraw my question.

Mr. Shibley: I am pursuing it.

Mr. Walker: May I ask a question?

Mr. Shibley: Yes.

Mr. Walker: Mr. Shibley, I wonder if I could enquire of Mr. Manthorpe, to help clear up the confusion over the chronology of the calls between...

(The H-22 - 1 follows)

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9.30 to 9.35 pm
fvk

Mr. Walker:

... I wonder if I could inquire of Mr. Manthorpe. I ~~have~~ ^{have}

Some confusion over the chronology of the calls ~~between~~
~~between~~ between Mr. Smith and you. There were,
I understand, two telephone calls?

Mr. Manthorpe: My recollection is three.

Mr. Walker: I'm sorry. Where did the third one ~~come~~ ^{come}

Mr. Manthorpe: The third one was ^{at} the end of the week
before I ~~saw~~ ^{saw} Mr. Candy. I recall that clearly because I
remember telling Mr. Smith that I had obtained ~~an~~ a date for
an interview with Mr. Candy. In the second call, I remember telling
him that I was having difficulty in getting an interview with
Mr. Candy, and ⁱⁿ the third one, I ~~am~~ remember telling him that I
had obtained an interview with him

Mr. Walker: So, the first call, you had originally
indicated ^{was in} the first week in December and that ~~was~~

Mr. Manthorpe: I'm inclined to think that it was
probably the last week in November

Mr. Walker: And the second call was in the first week?

Mr. Manthorpe: Probably in the first week in December
and the third call would be in the second week in December.

Mr. Walker: In all these cases he failed to identify
himself?

Mr. Manthorpe: Yes.

Mr. Walker: You probably recognised, did you, who it
was ^{not} not in name, but you knew the second call related to the
first call?

Mr. Manthorpe: Oh, yes, he made that plain. It was
the same person.

Mr. Walker: How did he start ~~me~~ out, like, ~~XXXXXXX~~
"remember me"?

Mr. Manthorpe: Yes, I think ^{was} with ~~at~~

Bullbrook:

Mr. Walker: Did you say: ~~XXXXXXX~~ "I'll never
forget you." ^{He's been} ~~that~~ ^{that} lately

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9:30 to 9:35 pm
fvk

4M Mr. Manthorpe: I think I said, "it's good to hear from you again."

Mr. Walker: All right. On the first call, apparently it was ~~there~~ that Mr. Smith made some references to a telephone call that he had previously ~~sent~~ received.

Mr. Manthorpe: Yes.

Mr. Walker: Would ^{you} go through those words again?

Mr. Manthorpe: He ~~said~~ ^{you} told me that the government was nervous about the contracts between Hydro and Canada Square and then he immediately said: "I've had a call from someone close to the Premier's office who told me to keep quiet about the subject."

Mr. ~~Walker~~ Walker: You indicated in your first evidence that you said something between the words: "the government was nervous about it" and "someone close to the Premier's office" had called me, "and so forth. What did you say to him at that time?

Mr. Manthorpe: I'm sorry; I don't recall ^{it} I don't believe there was anything. ^{if you want} ~~to refresh my memory~~ on what I had said earlier. I know he ^{transcript or something} ~~transcript or something~~.

Mr. ~~Walker~~ Bullbrook: Do you ~~recall~~ that he said something? Mr. Walker:

Mr. Walker: Yes.

Mr. ~~Walker~~ Hodgson: Yes; that's right. He started asking ^{him} ~~him~~ at that time.

Mr. Manthorpe: No, I didn't ^{ask} ~~ask~~.

~~Mr. ~~Walker~~ Hodgson: Yes; that's right. He started asking him at that time.~~

Mr. ~~Walker~~ Hodgson: No, I didn't ask him about names until

after he had said that he had received a call.

Mr. W. Hodgson: ^{NO, not until} ~~After, I was asked, they say~~

Mr. Walker: And this was at the very beginning?

Mr. Manthorpe: This was close to the beginning of the conversation.

Mr. Walker: And did he identify himself as a developer or as one of the contractors?

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fvk

Mr. Manthorpe: He identified himself as ~~the~~ the president of ~~the~~ ^a company that had ~~be~~ tendered on the building.

Mr. Walker: That narrowed it to three individuals, ~~was~~ ^{didn't} it?

Mr. Manthorpe: That's right, unless it was Mr. Moog.

Mr. W. Hodgson: Two besides himself.

Mr. Walker: When you gave your evidence initially, you said that you were not really sure whether Smith said to you, -- this anonymous caller said to you -- "and told me to keep quiet" or whether you might have heard him say "and told ~~me~~ ^{me} to keep my mouth shut".

Mr. Manthorpe: Yes, I'm not certain of the precise wording on that, whether it was "I was told to keep quiet" or "I was ~~told~~ told to keep my mouth shut." I'm not sure ~~as~~ ^{on that} what his precise wording ~~was~~ was.

Mr. Walker: But you are clear that you told ~~Mr. Mc~~ ~~McAuliffe~~ ^{McAuliffe} ~~that~~ the word "quiet" was used; ~~that~~ he was told to keep quiet about it?

Mr. Manthorpe: I would say the same reservation goes for what I said to Mr. McAuliffe.

Mr. Walker: So you might have said to McAuliffe something about "keeping my mouth shut" or using Smith's words?

Mr. Manthorpe: I might have done.

(*Tape N*722*x* H-723 follows)



723-H-1

(Mr. Manthorpe)

~~I guess what I said to Mr. McAuliffe~~

~~Mr. Walker: So you might have said to Mr. McAuliffe something about "keeping my mouth shut," or using Smith's word?"~~

~~Mr. Manthorpe: I said that I did not say that~~

Mr. Walker: Is it at all possible that you suggested to Mr. Smith that he was told to keep quiet?

Mr. Manthorpe: No.

Mr. Walker: Well, you see there is a very grand discrepancy here between what you are saying and what Mr. Smith said that he said when he phoned. Mr. Smith seems unequivocally sure that he did not say those words. Are you in fact saying that Mr. Smith is not ~~is~~ telling the truth?

Mr. Manthorpe: I'm just recalling the conversation to the best of my ability.

Mr. Bullbrook: That is not the evidence, that Mr. Smith gave.

Mr. Chairman: I don't think it is up to Mr. Manthorpe to draw that conclusion.

Mr. Shibley: As a matter of fact I'd better read the evidence. I have it in Hansard. It is at tape 628, page 2, about three-quarters of the way down the page:

Mr. Shibley: "Did you have any discussion with him about any communication to you that you should not complain or voice criticism because you were engaged in doing government contracts?"

Mr. Smith: I could have. That would probably be my reason for not telling him who was calling."

Mr. Shibley: In the course of your conversation with him did you use the term "threat", namely that you had been threatened not to say anything, otherwise you would never receive another government contract?

Mr. Smith: No.

Mr. Shibley: You never used that term?

Mr. Smith: No, no.

Mr. Shibley: Did you mention the fact that you were involved in doing government contract work?

Mr. Smith: I don't think so.

I see.

"Mr. Shibley: Yes."
"Mr. Smith: Yes." ~~XXXXXXXXXX~~

~~MxxXStxktxXIXxxxxIhxhxnmxXXTIxakwnmIhxkrxbnhtixXhbxxy~~

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9:35 - 9:40 pm
CA

H-723-3

(Mr. Shibley)

"Mr. Smith: I could have. That would probably be my reason for not telling him who was calling^W.

Mr. Walker: I think it goes further, doesn't it?

Mr. Shibley: Then he denied the threat. We took it piecemeal. He confirmed that he could have told him of a communication that he should not complain. He could have said that. He denied vehemently that he was threatened; repeatedly denied that. Not only in this part of the transcript, but elsewhere. So that I think the evidence is not inconsistent, Mr. Walker. I think this witness is saying that what Mr. Smith said to him was "someone close to the Premier's office had called me and told me to keep quiet about it", which is a far cry from saying that he was threatened. You agree with that, Mr. ~~Walker~~^{Montgomery}. There was nothing in what Mr. Smith said to you that implied a threat.

H-724-1 follows



June 21, 1973
9.40-9.45 p.m.
M.F.

H - 724 - 1

(Mr. Shibley)

~~do you agree with that Mr. Manthorpe? There was nothing in
what Mr. Smith said to you that implied a threat.~~

Mr. Manthorpe: No, I have already said that he ^{never} told me that he was threatened.

Mr. Shibley: Yes, I realize that.

Mr. Chairman: Any other members of the committee?

Mr. Glen Hodgson: Yes, I have one. Mr. Manthorpe, did you ever call Barry Brooks or talk to him about this relationship between Mr. Davis and Mr. Moog?

Mr. Manthorpe: No.

Mr. Renwick: Mr. Chairman, just three or four miscellaneous matters. When you searched the corporate records of the three companies, did you do it all on the same ~~one~~ day?

Mr. Manthorpe: Yes, I did.

Mr. Renwick: And you believe that to be the day following your meeting with Mr. Candy?

Mr. Manthorpe: I believe it was, yes.

Mr. Renwick: I wonder, because of the importance of it whether they could check the corporate record office ~~to see~~ I think they keep a note of the day on which those files are made available.

Mr. Shibley: We will see anyway.

Mr. Renwick: They used to note them and I think they still perhaps do indicate ~~that~~

Mr. Chairman: They probably keep a receipt. I know they give a receipt out.

Mr. Renwick: Yes, there might well be something there that would help to tie down this chronology problem.

Mr. Chairman: I presume you paid, Mr. Manthorpe?

Mr. Manthorpe: Oh yes, six dollars.

Mr. Shibley: Would the receipt for that search be in your files?

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9.40-9.45 p.m.
M.F.

P - 124 - 2

~~(Mr. Renwick)~~

Mr. Manthorpe: No, it wouldn't. I claimed the money back from the company and I had to give them the receipt.

Mr. Chairman: When I was referring to a receipt I was thinking of the province's copy of the receipt. Well, I think probably ~~Mr. Manthorpe: No~~ ^{Mr. Renwick: No} Will check it out

Mr. Renwick: Just in order to confirm it, I take it that when you turned over your files to the editor you retained nothing in your possession relating to Hydro?

Mr. Manthorpe: That is right.

Mr. Renwick: And I take it that the matter which led you to withdraw from the particular story in connection with the conflict of interest, because of Mr. McCallum ~~being~~ the solicitor for the Hydro on the transaction that that also had nothing to do with the Hydro problem?

Mr. Manthorpe: No, it had nothing to do with the Hydro.

Mr. Renwick: Now again, because I have the same problem on chronology that Mr. Walker has, the first call from Mr. Smith to you I take to have been made to you during the week commencing Monday the 27th of November which is the last week in November?

Mr. Manthorpe: That would be about right.

Mr. Renwick: Some time during that week?

Mr. Manthorpe: Yes.

Mr. Renwick: And then the second call was during the next week, that was the week commencing Monday the 4th of December? And you thought that that was toward the later part of that week, which would be the 7th or 8th?

Mr. Manthorpe: I think it probably was, yes.

Mr. Renwick: And you say that the third call was during the week of Monday, December 11th, during that week?

Mr. Manthorpe: I am sorry - well there were in all likelihood two calls in that week ending December 8th, I guess, or 9th.

June 21, 1973
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M.M.F.

H - 724 - 3

Mr. Renwick: Yes, the 8th would be the Friday.

Mr. Manthorpe: There were probably two calls in that week then, one at the beginning and one near the end.

Mr. Renwick: And none in the week of the 11th?

Mr. Manthorpe: No, the last call I had from Mr. Smith was a few days before I saw Mr. Candy and Mr. Smith, and I said to Mr. Smith that I hoped to get from Mr. Candy some information about the other companies and the last words I had from Mr. Smith were, "Well, no doubt when you get round to ringing the other companies ~~again~~ you will be talking to me again!"

Mr. Renwick: So that your last call from Mr. Smith, or from the person believed to be Mr. Smith, who has indicated that he called you, would be before you saw Mr. Candy?

Mr. Manthorpe: Yes.

Tape II - 1.1 follows

June 21, 1973
9.45 to 9.50
M.T.

H-725-1

Mr. Renwick:

And it was in the first call from Mr. Smith to you, that having identified himself as the president of one of the companies which lost out on the Hydro proposal, that he used the expression which you had quoted?

Mr. Manthorpe: Yes, I did refer to it again in the second call and I asked him if he was prepared to tell me who it was who had called him and he wasn't and I left it there.

Mr. Renwick: So that ~~that~~ so far as you can clarify the matter, it would be therefore in the week ~~commencing~~ commencing Monday, November 27, 1972 that Mr. Smith told you about the call from someone close to the Cabinet?

Mr. Manthorpe: As near as I can tie it down, yes.

Mr. Renwick: You could say, could you, that it was not later than that?

Mr. Manthorpe: I am convinced that it was not later.

Mr. Renwick: Not later than the end of that week?

Mr. Manthorpe: Yes

Mr. Renwick: I have no further questions, Mr. Chairman.

Mr. Chairman: Any other member any questions? I just have one or two, Mr. Manthorpe. Have you ever been threatened by an important member of the Progressive Conservative Party?

Mr. Manthorpe: No.

Mr. Chairman: Why not? Thank you very much, Mr. Manthorpe. We appreciate it.

Mr. Shibley: I would like to call Mr. McAuliffe please.

GERALD MCAULIFFE, sworn

Mr. Shibley: Mr. McAuliffe, what is your occupation?

Mr. McAuliffe: I am a journalist.

Mr. Shibley: With what publication are you ~~are~~ associated?

Mr. McAuliffe: The Globe and Mail.

Mr. Shibley: How long have you been with that newspaper?

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9.45 to 9.50
M.T.

H-725-2

Mr. McAuliffe: About 16 to 18 months.

Mr. Shibley: And prior to your employment with the Globe and Mail, with what publication were you connected?

Mr. McAuliffe: I was, I think it was, seven or eight years with the Hamilton Spectator.

Mr. Shibley: And how long have you been in the field of journalism in the overall?

Mr. McAuliffe: About 13^{1/2} 14 years, sir.

Mr. Shibley: What was the first occasion upon which you had any communication of any sort with anyone referable to an investigation into the contract between Ontario Hydro and Canada Square for the construction of its new head office?

Mr. McAuliffe: ~~It would be about the last week of~~

~~March.~~

Tape 1-7-1-11-1-1

June 21/73

9:50-9:55 pm

C.B.

~~the construction of the new office?~~

Mr. McAuliffe: It would be about the last week of March.

Mr. Shipley: ~~What was the circumstances of that communication?~~ 1973

Mr. McAuliffe: I was assigned by my editor to have a look at the matter.

Mr. Shipley: Did you have the benefit of any previous investigations?

Mr. McAuliffe: The answer is that is both yes and no.

Mr. Shipley: All right.

Mr. McAuliffe: I met one afternoon, I'm sorry but I don't have a date, with Jonathan Manthorpe, who had looked at the matter earlier.

Mr. Shipley: Yes.

Mr. McAuliffe: I had reviewed with him the background of the matter, and what he believed at the time to be the issues involved.

Mr. Shipley: Did your editor make any contribution in terms of informing you of any facts which might be of assistance?

Mr. McAuliffe: No.

Mr. Shipley: So the first information source was Mr. Manthorpe and his files.

Mr. Shipley: All right. Would you carry on, please? On the occasion of your meeting with Mr. Manthorpe you say you reviewed the background. What did you mean by review the background?

Juen 21/73

9:50-9:55 p m
C.B.

1 Mr. McAuliffe: I was totally unaware of anything that ~~had been~~^{was} involved. I'd been ~~I~~ tied up on another investigation for, I think, approximately three or four months previous to that. I would have read the occasional story that appeared up to that time, but without attributing any special significance to it.

Mr. Shibley: Now, on that occasion did Mr. Manthorpe review with you, firstly, the communications he had had with Mr. Smith of Ellis-Don?

Mr. McAuliffe: Yes, sir, he did.

Mr. Shibley: How did he communicate to you the information ~~obtained~~^{received} from Mr. Smith? Was it in writing, or verbally?

Mr. McAuliffe: Oh, no, it was verbally.

Mr. Shibley: What did he say?

Mr. McAuliffe: He just told me that in the course of my investigation that ~~he~~^{he} suggested that I should talk to the officers of the competing companies involved.

Mr. Shibley: Yes.

Mr. McAuliffe: And that I should talk to people at Ellis-Don and I went over with him the answers that had been tabled in the Legislature and reading over a statement - I shouldn't say a statement, but some remarks that the Premier had made in ~~the~~^{the} ~~the~~^{the} figure them out.

Mr. Shibley: I want to direct your mind for the moment particularly to what Mr. Manthorpe said to you or recited to you as to what was told in turn by Mr. Smith to him, during ^(the) a course of a series of telephone communications between them.

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9:50-9:55 pm

C.P.

Mr. McAuliffe: Well, not very much, sir.

He said he had received two or three telephone calls from a gentleman who didn't identify himself.

Mr. Shibley: Yes.

Mr. McAuliffe: Who encouraged us to pursue the investigation ~~and~~ I'm sorry, Mr. Shibley, could I just get you to repeat that question again? I lost my train of thought.

Mr. Shibley: What I'm interested in is this:

When you wrote ^(your) ~~that~~ article of April 20, 1973, exhibit 172, ~~that~~ ^(as per Cows.) there is reference in the article ^(one of) A senior executive of ~~the~~ three unsuccessful firms that bid on the project said he was called several weeks ago by a source close to the Ontario cabinet and high in the progressive Conservative Party and told the ~~the~~ Globe and Mail, ~~that~~ was investigating, I was told to keep my mouth shut or I would never get another government job, ~~the~~ Company officials said. He insisted he not be identified.

Now, I might tell you, Mr. McAuliffe, because you were ^{absent} ~~active~~ for part of the hearing, that it is now ~~unambiguously~~ unequivocally ~~established~~ ^{it} that the individual who communicated ~~the~~ ^{it} Globe and Mail in this respect was Mr. Smith, ~~and~~ He himself has testified to that effect; Mr. Manthorpe has, of course, confirmed it.

Now...

H 727 to follow

June 21/73
9.55 - 10.00 p.m.
R.E.S.

B-727 - 1

(Mr. Shibley)

~~.. Mr. Manthorpe has, of course, confirmed it.~~

Now, I want to know at this juncture what, if anything, was contributed in terms of information collected by you, by statements made to you by Mr. Manthorpe as to what he had been told in turn by Mr. Smith about that statement in your article#.

Mr. McAuliffe: Absolutely nothing. When that statement was made to me, it was made to me some weeks after meeting with Mr. Manthorpe and

Mr. Shibley: All right, we'll get to that. At the moment, then, can we take it that MR. Manthorpe did not relate to you on the occasion of his briefing of you, what Smith told him was the content of a telephone communication?

Mr. McAuliffe: Yes, he did, but in a sort of an abstract way, and I say that insofar as at the time my investigation was not going directly to the heart of the Hydro-Canada Square agreement. I was starting off on some other peripheral areas, and at that stage didn't pay too much significance to the actual Hydro aspect of it itself...

Mr. Shibley: I see

Mr. McAuliffe: .. and, as I say, wasn't until some weeks -- it was mentioned to me, I recall now that it was certainly mentioned in the course of the discussion..

Mr. Shibley: ..

Mr. McAuliffe: .. but not identifying Mr. Smith by name.

Mr. Shibley: All right. I think it's important for this committee to know what is your best memory of what Mr. Manthorpe told you that he in turn had been told by MR. Smith in that respect.

Mr. McAuliffe: All right. He told me that he had received a telephone call from this unidentified president of a company who had told him that he was suspicious

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9.55 - 10.00 p.m.
R.E.S.

H-727M- 2

(Mr. McAuliffe)

of the process in which the successful ^{bidder} won out, that he had been told when he submitted his bid not to work too hard at it, and had been told by somebody that he was to keep quiet about it.

Mr. Shibley: Yes, now, in respect of that last part of your answer, is that as precise a statement as you can give this committee of what Mr. Manthorne told you that Mr. Smith said?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: That somebody had told him to keep quiet about?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: Did Mr. Manthorne tell you or in any way infer to you that Mr. Smith ^{had} said that he had been threatened?

Mr. McAuliffe: No, sir.

Mr. Shibley: Or that ...

Mr. McAuliffe: I'm sorry, would you -- did he say or infer?

Mr. Shibley: Yes.

Mr. McAuliffe: Well, at that stage, Mr. Shibley, Mr. Smith was just a name to me, ~~xxxx~~

Mr. Shibley: ~~xxxx~~

Mr. McAuliffe: ... that at that stage I had been suggested ~~xxxxxx~~ that I should sometime get in touch with.

Mr. Shibley: I realize, Mr. McAuliffe. At the moment I'm just trying to establish what input, if you like, was made by Mr. Manthorne, which formed part of your article. And I want to be sure that this committee understands what Mr. Manthorne recorded to you as to what Smith had said respecting this telephone call, and I gather from your answers that what Manthorne told you was that Smith said he had been called by someone and told to keep quiet about it.

Mr. McAuliffe: Yes, sir.

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9.55 - 10.00 a.m.
R.E.S.

H0727 - 3

Mr. Shibley: Is that as precise ...

Mr. McAuliffe: That's the best of my recollection,
that's right.

Mr. Shibley: And there was nothing in the
communication that expressly or impliedly amounted to a threat?

Mr. McAuliffe: No, sir.

Mr. Shibley: And ~~that~~ in particular a threat that
if he didn't keep his mouth shut he never would get another
government job?

Mr. McAuliffe: No, sir.

~~Mr. Shibley: All right, now let's go on...~~

(Tape H-728 - 1 follows)

June 21/73
10:00 - 10:05 pm.
M.S.

(Mr. Shibley)

~~Mr. Shibley: Yes, sir.~~

~~Mr. Shibley: And, in particular, the fact that~~

~~if he didn't keep the mouth shut, he was a victim of another~~
~~government job?~~

~~Mr. McAuliffe: No, sir.~~

Mr. Shibley: ~~Now,~~ let's go on from there. ~~Now,~~
Have you given us the substance, otherwise, of what Mr. Manthorpe
told you respecting his information at that point?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: Did you also receive his file?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: I understand from Mr. Manthorpe

that, aside from documents which really are already a matter of
exhibit, the only documents that that file contained are memoranda
prepared by him, Is that correct?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: ~~Now,~~ I would like to reserve further
questioning as to the file until Mr. Lane and I have had a chance
to get together and decide what's to be done with the file.

Mr. Chairman: Mr. Lane, I gather, also represents
Mr. McAuliffe, Is that correct?

Mr. E.M. Lane: Yes, Mr. Chairman, thank you.

Mr. Shibley: All right. So, you received his
file, We'll leave the file for the moment. May I just put the
question generally to you in these terms: Was there anything
more in the file which was of any assistance to you, respecting
the investigation? Other than the answers to the questions in the
House ~~---~~

Mr. McAuliffe: No, sir.

Mr. Shibley: ~~---~~ and the investigation that was
made by him at the corporations branch?

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M.S.

Mr. McAuliffe: No, sir.

Mr. Shibley: All right.

Mr. R.G. Hodgson: Mr. Shibley, I'd like to ask a question at this point. You mentioned in your original start of the investigation you were in some other peripheral areas. Would it be that some of these peripheral areas were generated by the notes of Mr. Manthorpe?

Mr. McAuliffe: No, sir.

Mr. Shibley: Now then, Mr. McAuliffe, you pursued the investigation from that point forward on your own?

Mr. McAuliffe: Yes.

Mr. Shibley: What was the next step taken by you in pursuit of information?

Mr. McAuliffe: Well, I guess I spent some considerable time really talking to some personal contacts who I have, trying to acquire whatever inside information I might acquire, to try and narrow down the areas of our investigation.

Mr. Shibley: So, and did you manage to narrow it down?

Mr. McAuliffe: Yes.

Mr. Shibley: All right. Having narrowed it down, what did you do?

Mr. McAuliffe: I intensified the investigation with more intensity.

Mr. Shibley: Well, where did you start?

Mr. McAuliffe: It's almost difficult to say where I started. At that stage I'd been working on it for three weeks and had talked to a number of people and just came to a conclusion in my own mind that what we should do is sort of zero in on the process under which the contract was awarded. I spent considerable time reading legal documents, doing some land title searching and so on. And then I set out to interview the officers of the competing companies.

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M.L.S.

Mr. Shibley: All right. What documents did you collect?

Mr. Macauliffe: ~~Macauliffe~~, there was the Hydro-Canada Square agreement; there were the various statements tabled in the House which required considerable research, reading and re-reading. Insofar as, I think you are aware, there are areas of significant contradiction and trying to really sort it out. There are some discrepancies in things such as figures and the number of square feet and all this sort of thing. And then I decided to call the

June 21/73
10.05 - 10.10 p.m.
R.E.S.

H-729 - 1

(Mr. McAuliffe)

~~_____~~
~~_____~~
~~_____~~
to ~~the~~ companies involved.

Mr. Shibley: All right. And did you make such calls?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: With whom did you start?

Mr. McAuliffe: Well, I talked to officials of all
of them.

Mr. Shibley: Who was the first?

Mr. McAuliffe: I wonder if you would rephrase
that question and perhaps

Mr. Shibley: Did you speak to Mr. Smith?

Mr. McAuliffe: Yes, sir, I did.

Mr. Shibley: Was he the first person you interviewed?

Mr. McAuliffe: Yes, of the companies, yes.

Mr. Shibley: How did you bring about that interview?

Mr. McAuliffe: I called him on the telephone.

Mr. Shibley: And you ~~requested~~ requested a personal
meeting with him?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: Did he immediately agree to it?

Mr. McAuliffe: Yes.

Mr. Shibley: And you attended ~~at~~ London to meet
with him?

Mr. McAuliffe: Yes.

Mr. Shibley: What date did you hold that meeting?

Mr. McAuliffe: April 17 at 9 ~~am~~ a.m.

Mr. Shibley: At his office in London?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: Who were present at the meeting?

Mr. McAuliffe: Well,

Mr. Bullbrook: Could we just clarify? Do I
understand the witness to say that the meeting was scheduled
for April 17 at 9 ~~am~~ a.m.?

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Mr. Shibley: Yes.

Mr. Bullbrook: Could we clarify that ~~when~~

That isn't when the meeting took place? I just wanted to clarify it. Would you?

Mr. McAuliffe: Yes, sir, it is when it did take place.

MR. Bullbrook: Oh, I'm sorry

Mr. McAuliffe: I talked to Mr. Smith by telephone on April 16, ~~on~~ the evening of April 16, .

~~Mr. Shibley~~

Mr. McAuliffe: ... Because of some difficulties in his schedule and mine, ~~He~~ agreed to see me in London the next morning. I met him very briefly when I first got down there. He had to absent himself for some meetings, and I remained in the presence of Mrs. Shuttleworth ~~and~~ his secretary and Dave Grant, Ellis-Don's secretary-treasurer.

Mr. Shibley: Yes.

MR. McAuliffe: ~~He~~ was joined by Mr. Smith, I would say, shortly after 11:30 in the morning.

MR. Shibley: All right, just before you go on, when you were with Mr. Grant and Mr. Smith's secretary, prior to Smith's arrival, did you have any conversation with them which provided you with any of the information which formed part of your article of April 30?

Mr. McAuliffe: You are putting me in a bit of a difficult position, Mr. Shibley. Mr. Smith referred earlier to

Mr. Shibley: I'll clear up that for you in a hurry. He has said that you were there initially with Mr. Grant and with his secretary, and I might tell you that they are going to be called as witnesses as to whatever they might have said or not said. At the moment I want to make sure that we are not overloading a possible additional source of information.

Mr. McAuliffe: Yes, I see. All right.

Mr. Shibley: If it's simply a case of, no, they didn't provide any information, then we can get down to ...

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Mr. McAuliffe: Yes, well, we discussed some information that was later gone over in the presence of Mr. Smith.

Mr. Shibley: So that nothing was said ~~by them~~ by them to you or you to them that ~~xx~~ wasn't reviewed later by Mr. Smith?

MR. McAuliffe: No, sir.

Mr. Shibley: And whatever was the exchange of information with Mr. Smith was consistent with whatever was the information provided by Mr. Grant and his secretary?

Mr. McAuliffe: That's right.

Mr. Shibley: All right. You will be assured, Mr. McAuliffe, I will make every ~~in~~ endeavour to

Mr. McAuliffe: Thank you, sir.

Mr. Shibley: ^{rule} honour your sort of ~~degree~~ of confidentiality to the extent that I am able.

~~Now then, so that~~ can we take it that when I start now to ask you about the exchange of information with Mr. Smith, that

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10 10 to 10.15 pm

(Mr. Shibley)

about the exchange of information with Mr. Smith that nothing that you heard and no information, written or verbal, provided by Mr. Smith and his secretary would be inconsistent with the answer that you are going to give as to what Mr. Smith himself said to you on the occasion of his arrest.

Mr. McAuliffe: No, sir.

Mr. Shirley: All right. We can take it as that. Now, then, Mr. Smith arrived at 11:40.

Mr. McCalliffe: Shortly after 12:30, eight

Mr. Shanley: And I want to take you now to the article and attempt to relate with you the information contained in it. This is exhibit 172, the article dated April 20, 1973. I want you to help me out. If you would, the information contained in this article that was obtained in the course of your interview with Mr. Smith. If there is any information not elicited from him, all I need from you at the moment is for you to say, "no, that was not forthcoming from him but from some other source." It starts off:

Mr. McLaughlin: Yes, 51

Mr. Shibley. "Hydro finally produced written specifications dated Feb. 3, 1942, one week after the deadline for proposals." Did Smith tell you that?

Mr. McGuillivray: [unclear]

Mr. Shibley: Next part?

Mr. McAuliffe: Well, he ~~didn't~~ didn't give me a specific date on it.

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Mr. Shibley: He just said it was later?

Mr. McAuliffe: He just said that they had -- ~~was~~

~~know~~ ^{were} ~~was~~ working on -- I am sorry -- no, sir, nothing of that came from Mr. Smith.

Mr. Shibley: All right. "Canada Square Corp.

Ltd., had, since the spring of 1971, detailed ["].

Mr. McAuliffe: Mr. Shibley, I am sorry to

interrupt you, I was one paragraph ahead of you.

Mr. Shibley: All right. Okay.

Mr. McAuliffe: Where I last left you was on

the 19 days. Okay, that came from Mr. Smith.

Mr. Shibley: Well, all right. "Written

^(were produced)
specifications dated February 1, ^{one week} after the deadline for proposals had passed." Did he tell you that?

Mr. McAuliffe: Yes, and other sources.

Mr. Shibley: "Canada Square, had, since the

spring of 1971, detailed architectural drawings for head office." Did Smith tell you that?

Mr. McAuliffe: ~~Yes~~

Mr. Shibley: "The ~~data~~ design and architectural

drawings would have revealed in great detail to Canada Square what Hydro's requirements ~~in~~ were in the way of a new head office."

Mr. McAuliffe: No, sir.

Mr. Shibley: "Hydro's late written specifications

were described by the spokesman for one of the competing developers as 'so general as to be almost useless.' Did M Smith tell you that?

Mr. McAuliffe: Yes, sir.

Mr. Shibley. Then the next portion is styled

"Told to keep mouth shut," and you have heard this read already and I don't think there is any point in reviewing it with you. Getting down to the portion: "A senior executive of one of the three unsuccessful firms that bid on the project said." Now, Mr. McAuliffe, was that Mr. Smith?

Mr. Shibley: Yes, and "A" senior executive of one of the three unsuccessful firms that bid on the project said he was called several weeks ago." Now did he say that he had been called several weeks ago?

Mr. Shibley: "By a source close to the Ontario
Cabinet," did he say that to you?

Mr. Shibley: "And high in the Progressive
Conservative Party," Did he say that to you?

Mr. Shibley: "And told the Globe and Mail was investigating." Did Smith tell you that.

Mr. Shibley: And then there's a quote: "I was told to keep my mouth shut or I would never get another government job." Ed Did he tell you that?

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M.T.

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(Mr. Shibley)

~~that quite covers the whole of the statement~~, namely,
"for I would never get another government job". and I might tell
you, Mr. McAuliffe, this is the first time that any witness has
said that Mr. Smith said this, either to Mr. Manthorpe or Mr. Smith
denies ever saying it, and of course, your evidence and Mr. Manthorpe's
appears consistent that he never ~~said~~ said it to Mr. Manthorpe. Do
you agree with that?

Mr. McAuliffe: Yes, that he never said that to Mr. Manthorpe,
yes.

Mr. Shibley: So I want to be perfectly clear that ~~what~~
when you interviewed him (he), according to your article, supplemented
what he had been saying up to that time, and said, "I was told
to keep my mouth shut or I would never get another government job".
Are you clear in your recollection that he added those words in
his statement to you on the occasion of your interview?

Mr. McAuliffe: Yes sir, I am.

Mr. Shibley: There is no doubt about it in your mind?

Mr. McAuliffe: Yes, that's right.

Mr. Shibley: Now, ~~with respect~~ with respect to getting
government jobs, did you discuss with Mr. Smith whether he was, in
fact, engaged upon government projects?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: What did he tell you in that respect?

Mr. McAuliffe: There was indirect - a lot of it was
indirect - ~~but~~ ^{but} he was also involved in bidding on direct government
jobs as a contractor.

Mr. Shibley: When you say indirectly, what type of project?

Mr. McAuliffe: Institutional buildings that require
provincial and federal government subsidies.

Mr. Shibley: Did he discuss with you at that time the
pending claim that he had respecting a hospital project?

Mr. McAuliffe: Yes, sir.

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M.T.

10-131-2

Mr. Shibley: What did he tell you in that respect?

Mr. McAuliffe: Well, we are a little ahead of ourselves a bit, really. And I wonder if I could, in order to get an absolute clarity, take you back and perhaps explain to you how the statement came about.

Mr. Shibley: Sure.

Mr. McAuliffe: I telephoned Mr. Smith at his home on the evening of April 16, at approximately 7:00 p.m. I'm sorry, about 8:00 p.m., told him who I was and what I was doing, and as an introduction extended the thanks of Jonathan Manthorpe for the letter that Mr. Smith had sent him. I told him I was investigating the Hydro-Canada Square agreement and that I would like to get together with him.

Mr. Shibley: Yes.

Mr. McAuliffe: And he said, "Well...", and then he used the quote, and-- Do you want me to use the exact words *that took part?*

Mr. Shibley: Yes I do.

Mr. McAuliffe: And I said to him, "Jesus Christ, you're not putting me on, are you?", and he said, "No". And I said, "Now, what was he saying?", and he said, "He was saying that he was a source of a cable to the Cabinet and high up in the Progressive Conservative Party, and said to keep his mouth shut or he'd never get another government job."

Mr. Shibley: When you made that exclamatory remark in response to something he told you, what had he told you?

Mr. McAuliffe: He told me that he had been called several weeks before by a source of a cable to the Cabinet and high up in the Progressive Conservative Party, and said to keep his mouth shut or he'd never get another government job.

Mr. Shibley: And this so impressed you that you made the exclamation that you have now given?

Mr. McAuliffe: I must say, it impressed me immensely. I explained to him at the time that this was ^{the} very purpose of our investigation. ~~xxxxx~~ He was ~~xxxxx~~ reluctant to talk. ~~xxxxx~~ I explained to him that ~~xxxxx~~ he was concerned with involving his company.

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P.L.M.

(Mr. McAuliffe)

~~has been~~

Mr. Shibley: Before you get into that, when you made the exclamatory remark you said "Would you repeat that".

Mr. McAuliffe: I said "Would you repeat that again?"

Mr. Shibley: Did he say that to you, too?

Mr. McAuliffe: Yes, he did.

Mr. Shibley: A second time?

Mr. McAuliffe: Yes.

Mr. Shibley: The content as you already said.

Mr. McAuliffe: Yes.

Mr. Shibley: You also had a portion about never getting another government job?

Mr. McAuliffe: That is correct.

Mr. Shibley: May you take notes of the conversation?

Mr. McAuliffe: Yes, I did.

Mr. Shibley: Would you produce them, please?

Mr. McAuliffe: Could we perhaps reserve that matter until the end of my testimony? With the greatest respect, it is a very difficult position and I think perhaps we might discuss that when my testimony is all in.

Mr. Shibley: We are not going to complete your testimony tonight, that much is true. We have to review other documents or discuss the review of documents with Mr. Lane in any event in the interval. What I would like to know now is, did you record the contents of that conversation?

Mr. McAuliffe: Did I record it?

Mr. Shibley: Yes, in the sense of writing it down.

Mr. McAuliffe: Oh yes, Sir, I wrote it down, yes.

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E.M.

100-33-4

Mr. Shibley: All right. And because of the impression ~~that~~ it had made on you, were you careful to record it as accurately as possible?

Mr. McAuliffe: Yes, sir, that is why I asked him to repeat it.

Mr. Shibley: And are you telling me that the record you created of it is a verbatim record?

Mr. McAuliffe: Yes.

Mr. Shibley: Of what Mr. Smith said?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: ~~At that time, so that~~ when you give your testimony today you are doing it with the benefit of refreshing your memory by reference to the note made contemporaneously with the telephone communication you had had with Mr. Smith on April 16th?

Mr. McAuliffe: The story was written from the benefit of that note.

Mr. Shibley: All right. Now, ~~on~~ the occasion of the same telephone communication, did Smith give you additional data?

Mr. McAuliffe: No, sir, he was reluctant to have his company -- he was reluctant since we were investigating the matter, he was reluctant to have his firm become involved in it.

~~McAuliffe: Yes, sir.~~

I told him I was sorry, but there was no way I could keep his firm out of the story, that they, as ^{would} others, ~~be~~ an integral part of it.

Mr. Shibley: You told him that during the telephone conversation?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: And notwithstanding that that you told

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E.M.

H-17732-3

(Mr. Shibley)

him, he nevertheless agreed to a meeting with you on the day following?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: I ~~write~~ notice in the article that immediately following the excerpt that we have been dealing with, you do report that he insisted he not be identified.

Mr. McAuliffe: On that quotation, yes, sir.

Mr. Shibley: Yes. So ~~that~~ the matter of ^{giving} remissing anonymous was a matter which Mr. Smith raised with you as well. When I say "as well" I am thinking of his anonymous call to Mr. Manthorpe. He did raise it with you?

Mr. McAuliffe: I'm sorry, I can't ~~say~~

Mr. Shibley: ^{When} He talked to you on the 16th he told you that he not be identified?

Mr. McAuliffe: No, sir.

Mr. Shibley: What did he tell you ⁱⁿ that ^{As he t-?} ~~to~~

Mr. McAuliffe: Well, we talked about ^{doing} ~~the~~ ~~fact~~ ~~that~~.

the story, ~~and~~ I explained to him that there was absolutely no way I could write a story that his firm would not be involved in, nor him by name and that ~~was~~ I thought because his firm was involved that the two of us would ~~be~~ together. I suggested a meeting ~~in~~ ~~at~~ ~~the~~ ~~time~~ ~~and~~ ~~place~~.

Mr. Shibley: Yes.

Mr. McAuliffe: Because I wanted to go through the ~~the~~ thing rather exhaustively.

Mr. Shibley: Yes.

Mr. McAuliffe: And we had some difficulty trying to work the time out again ~~to~~ ~~the~~ ~~schedule~~ ~~but~~ ~~it~~ ~~was~~ ~~agreed~~ ~~that~~ ~~I~~ ~~would~~ ~~go~~ ~~to~~ ~~London~~ ~~the~~ ~~next~~ ~~morning~~ ~~and~~ ~~that~~ ~~with~~ ~~certain~~ ~~conditions~~ ~~that~~

(Tape H-733 follows)

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10:25-10:30 p.m.
M.F.

100-735-12

(Mr. Shibley)

the information will be complete if we just deal with the information presented at the time of that meeting?

Mr. McAuliffe: Right.

Mr. Shibley: And he was present, Mr. Grant was present and the secretary -----

Mr. Shibley: And he was present, Mr. Grant was present

Mr. Shibley: And he was present, Mr. Grant was present

Mr. Shibley: And he was present, Mr. Grant was present

Mr. Shibley: You said I have anyone else accompanying you from the Globe?

Mr. McAuliffe: Yes.

Mr. Shibley: And you were asking questions and they were giving the answers?

Were you asking questions and they were giving the answers?

Mr. McAuliffe: Yes.

Mr. Shibley: And did you have a series of questions prepared?

Mr. McAuliffe: Not prepared. I had acquainted myself as thoroughly as I could to that date with the issues involved and simply asked verbal questions.

Mr. Shibley: These were verbal questions?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: And you were asking questions and they were giving the answers?

Mr. McAuliffe: I was not. I had some notes with me but I don't know whether I used them to assist me in -----

Mr. Shibley: What I meant was did you sit down the night before and prepare a list of topics about which you wanted to inquire?

Mr. McAuliffe: No, sir.

Mr. Benwick: Mr. Chairman, without interrupting Mr. Shibley's train of thought, what is your view about the adjournment?

Mr. Chairman: Just checking to see what was going on in the House.

Mr. Benwick: We have been at it a long time. I think

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(Mr. Renwick)

this is a convenient time to stop.

Mr. Chairman: One or two have suggested that we could go longer but in fairness to everybody involved I don't think we should try to conduct this inquiry on the same basis as the House runs its business, and I think you would agree with me on that, Mr. Renwick?

Mr. Shibley: You are not going to get any argument from me.

Mr. Chairman: I think it ^{is} ~~is~~ in deference to ~~any~~ ^{no} one else than perhaps our own counsel who has been at it pretty steadily, that we should probably adjourn just about now.

Mr. Renwick: Well, it is an important witness, important testimony.

Mr. Chairman: The witness himself can easily get confused at this hour of the night. I know he has been with us a good part of the day.

Our next meeting is Wednesday of next week, and I would suggest 9:30 a.m. ~~next Wednesday~~ is that reasonable?

Mr. Bulbrook: Make it 10 o'clock.

Mr. Chairman: 10 o'clock? The request has come from Mr. Bulbrook that we shouldn't meet until 10 o'clock.

Mr. Bulbrook: I am just thinking of our activities the night before.

Mr. Shibley: If I might just enlist your help, because I have to arrange for people to attend Wednesday we are sitting 10 to 12 and from 2 until 5, 5:30 or 6?

Mr. Chairman: Yes, I don't think we should try to meet in the evenings next week.

Mr. Renwick: I think 10 to 12:30.

Mr. Chairman: 10 to 12:30 and 2 to 6.

Mr. Shibley: 2 to 5:30. And on Thursday and Friday are you going to sit those same hours on those days?

Mr. Chairman: Thursday is all right. You don't want

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10 30 - 10.35 p.m.
M.H.

~~Is this all right?~~

~~Mr. [redacted]:~~ Thursday is all right
~~Mr. [redacted]:~~ I'll be away on Friday, ~~and [redacted]~~
~~Mr. [redacted]:~~ You don't want Friday morning,
any part of Friday?

~~Mr. [redacted]:~~ Well, I'm prepared to ^{sit} Friday
morning, but I think it is the out-of-town members ^{probably}

~~Mr. Allen:~~ Friday morning is all right. I can't
be here Friday afternoon.

~~Mr. Walker:~~ I won't be here Friday and I won't
be here Thursday.

~~Mr. Chairman:~~ It looks as though we will only
have two full days, Wednesday and Thursday and I hope the
following week a full week.

~~Mr. Shibley:~~ That was the next thing I wanted
to ask because ~~because~~ I have a logistical problem. ~~because~~
These are very busy people and I'm trying ^{not} to—I haven't yet
inconvenienced anyone I don't believe but I must have some
idea when the committee intends to sit and for how long.

The following week are we going to sit on
Monday, Tuesday, Wednesday and Thursday?

~~Mr. Renwick:~~ Monday is the holiday of the
following week.

~~Mr. Shibley:~~ Oh yes.

~~Mr. [redacted]:~~ We will start on Tuesday.

~~Mr. [redacted]:~~ Tuesday the 1st

~~Mr. [redacted]:~~ Monday, Wednesday and Thursday
I would expect ~~to be~~ ^{to be}

~~Mr. Shibley:~~ For full days.

~~Mr. Renwick:~~ ^{The} Third, fourth and fifth.

~~Mr. Shibley:~~ ^{They} would be mornings and afternoons
but not evenings!

~~Mr. Chairman:~~ Yes. So we are now adjourned
until 10 ~~o'clock~~ ^{o'clock} Wednesday next week.

Thank you, gentlemen.

[The committee adjourned at 10:30 o'clock, p.m.]

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
173.	708-3	Memo to filing - May 8, 1973 - From D. A. Dack re Visit of Jonathan Manthorpe to K. H. Candy

11-1

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, June 27, 1973

Morning session

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
Counsel to J.D. Smith:	John Brownlie
Counsel for J.W. Mantelhorpe and Gerald McAuliffe:	E.M. Lane
Journalist, The Globe and Mail:	Gerald McAuliffe
City Editor, The Globe and Mail:	E.H. Moser
President, Ellis-Don Ltd.:	J.D. Smith

List of exhibits introduced during this sitting appears on last page.

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDRO HEADQUARTERS

H-735 - 1

June 27, 1973
10.10 - 10.15 a.m.
M.R.

Mr. Chairman: Ladies and gentlemen, I call the summer series of these hearings to order, and immediately pass it over to Mr. Shibley who has some opening remarks to make.

Mr. Shibley: I think it important that I advise the members of the committee of ~~the~~^{the} number of matters that have evolved over the course of the recess, since our last meeting.

To begin with, with respect to the productions in the possession of the Globe and Mail, I have had the benefit of a meeting with certain of the editors of that newspaper, in company ~~with~~ their counsel.

I wish to report to the committee that the discussions that resulted ~~that~~ were conducted in a spirit of the utmost cooperation, but that throughout those discussions their self-imposed rule against disclosure of sources of information provided on a confidential basis was never offended by them.

I want that a matter of record today, in particular in the circumstance of certain evidence that has surfaced in a different manner and which will be significant to the deliberations of this committee.

In addition, as a result of the discussions which I have had with the representatives of the Globe and Mail, in which I have myself reminded ^{them} that part of their rule is that the source of information or the information itself will be produced should the source attempt to deny or, so to speak, put the lie to the publication of the information. ~~that~~ ^{that} being an exception to the rule, I reminded them that a conflict of evidence existed at this stage of the testimony as between the evidence given by Mr. Smith and Mr. Cronyn on the one hand, and the evidence of Mr. Manthorpe and to the extent he has given it, of Mr. McAuliffe, referable to whether

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M.R.

(Mr. Shibley)

or not Mr. Smith was warned to keep his mouth shut or be quiet, otherwise he would never get another government contract.

Now you will remember that Mr. Smith testified that he could not have given this statement to Mr. Manthorpe because his interview with Mr. Manthorpe took place in late November, whereas the communication in question was identified as a communication made during the period December 12th through December 15th, of the ensuing month.

And therefore, Mr. Manthorpe's evidence in that respect was necessarily in error and I will advert to the evidence later on. So that there is, on that premise, a conflict of testimony between Mr. Smith and Mr. Manthorpe, to the extent that he had already given evidence there was a similar conflict of testimony between Mr. Smith and Mr. McAuliffe in that Mr. McAuliffe reported that ~~on~~ⁱⁿ his telephone interview of April 6th, he was told ~~that~~ by Smith that Smith had been called by a source close to the Cabinet and high in the Progressive Conservative Party and that "I was to keep my mouth shut or I would never get another government job".

~~Mr. Smith has denied at least the latter part ...~~

H-736 to follow

June 27/73
10.15 to 10.20 am
fvk

(Mr. Shibley)

keep my mouth shut or I would never get another government job, ^{Mr Smith has denied} at least, the latter part of that evidence. ~~And~~ And we left off on the basis that I had asked Mr. McAuliffe if he had received — I'm ~~xxx~~ sorry — if he had made a note of his conversation at that time. He said that he had, and that his ~~w~~ evidence was the result of having refreshed his memory from the note that he had made at that time.

I have asked for production of that note and it has been produced to me on the basis that Mr. Smith, having contradicted the statement given to Mr. McAuliffe, falls within the exception to the rule of the press to which I have adverted, and, on the further basis that MR. Smith himself has disclosed himself as the source of the communication in question.

Very similarly, a very serious conflict of interest — I'm sorry — conflict of evidence between the evidence given by Mr. Cronyn and the evidence given by Mr. Manthorpe and Mr. McAuliffe.

I might tell the members of the committee that in light of certain evidence produced to me yesterday afternoon from another source, I took the occasion to reread the transcripts of evidence of Mr. Smith, Mr. Cronyn and Mr. Manthorpe; a task, I might say, that kept me awake to one a.m. this morning.

Mr. Cronyn has testified on a series of questions which I put to him referable to the chronology of communications between himself and Mr. Smith. I asked him from day one: ~~what~~ "What was your first communication referable to this matter? What ~~x~~ was your next communication, and your next, and your next?"

As you will note when we review the evidence, ~~he has~~ ^{it is} indicated throughout his evidence that whereas Smith did report to him that he was unhappy about the manner in which Hydro had ^{a/} handled the situation, at no time did he have any conversation with Mr. Smith, nor any communication with him, referable to the effect of Smith's complaints upon his receiving government contracts; that there was never any such communication between them. That, of course, is evidence inconsistent with the evidence which Mr.

June 27/73
10.15 to 10.20 am
fvk

Mr. Shibley

Manthorpe gave, particularly as ^{he} ~~it~~ pinpointed in time, the communication from Smith as being in November of that year, ~~prior~~ prior to the point of time ~~that~~ ^{when} Mr. Cronyn said, ~~that~~ he had his "famous" telephone conversation with Smith, which he said occurred during the period December 12, 13 and 14.

My intention this morning is to pursue the matter as follows and I would ask the committee to accommodate me in this respect. If more is required by any member of the committee, as you know, any witness is subject to recall, ~~but~~ ^{but} I would ask you to accommodate me as to the order in which I want to deal with the evidence.

It's my intention, first, to call Mr. McAuliffe simply to tender the corroborative document by ~~was~~ way of his note made on April 16, 1973. I will, thereafter, be calling Mr. Ted Moser, an editor of the Globe and Mail, who will testify as to the ~~existing~~ existence.

(Tape H 737 follows)



June 27/73
10:20 - 10:25 am.
M.S.

(Mr. Shibley)

~~Go to and Mr. Moser will testify to the existence of that~~
note within two days, I believe, of its having been made,
according to the date thereon.

My ~~reasoning~~ reasoning for calling Mr. Moser is
to eliminate any thought that this note was created after the
event, so to speak, ~~but~~ rather that it came into existence
contemporaneously with the interview which Mr. McAuliffe has
given evidence about.

I am most anxious that we limit the evidence
of those two witnesses to simply that area of the investigation.
~~I then intend to interrupt the continuation of the evidence of~~
~~Mr. McAuliffe.~~ I'm sorry, I then intend to continue with the
interruption of Mr. McAuliffe's evidence and defer ~~its~~
completion. You will remember that we had ~~it~~ left off at the
point where he had testified only as to his telephone communication
of April 6th, and he had not testified yet as to the exchanges
he had with Mr. Smith, Mrs. Shuttleworth and Mr. Grant, when he
visited London on April 7. His version of what transpired has
not yet been tendered and I wish to reserve that, pending the
recalling of Mr. Smith to deal with the matters in question and
a certain additional item of important evidence, and the
recalling of Mr. Cronyn, respecting the same matter.

~~Now.~~ In that latter respect I should tell the
committee that at 1:45 yesterday afternoon, I received a telephone
call from Mr. John Brownlie of Blake Cassels ~~and~~ Graydon, the
same firm with which Mr. King is associated, the firm representing
Ellis-Don. Mr. King is currently away on holiday and Mr. Brownlie ^{is}
retained to substitute for Mr. King during his absence.

In the course of that telephone conversation, Mr.
Brownlie made me aware of a certain document which I do not want
identified or described at this time. It will be introduced in
evidence later, when Mr. Smith is recalled.

June 27/73
10:20 - 10:25 am.
M.S.

(Mr. Shibley)

I ~~am~~ asked for and received, by hand delivery, at 12:45 yesterday afternoon, a copy of that document, which led me into the review of the evidence that I have disclosed to this committee.

And as I say, later when we reach that point, Mr. Brownlie would like an opportunity to make a statement to the committee as to the circumstances surrounding the production of that document. I would, again, ask the committee to exercise a large measure of reserve and not put questions to him which are ~~properly~~ properly left to be asked of the witnesses, because, frankly, he is not a witness. I think it appropriate for him to tell you the circumstances surrounding the surfacing of that document. I do not think he is the person to explain the document ~~in~~ itself, or the reason for ~~its~~ non-production to this point of time.

Now, ~~if~~ ^{if} it sounds like a lot, it has been a lot.

I just ask you to be patient with me, to follow my lead if you will, while I take you through this course of evidence; and when we are through that much of it, if you wish to return for any reason, in terms of recalling any of these people, then of course it's your ~~own~~ prerogative.

Tape H 738 follows



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10.25-10.30 am
V.H.

(Mr. Shibley)

~~for any reason to think of anything about these people~~
~~that would be so to do.~~ But I am
concerned because I have my own thoughts on how this
should be handled to alert you to the need, as I say, for a
minimum ~~leaving~~ from the order I have ~~presented~~ down.

With the committee's permission, Mr. Chairman,
I would first like to recall Mr. McAuliffe for the limited
purpose I have indicated.

Mr. Chairman: Thank you, Mr. Shibley. If Mr.
McAuliffe would come forward.

Thank you, Mr. McAuliffe. You will recall that
you were sworn in the previous stage of the hearings.

Mr. McAuliffe: That's correct, sir.

Mr. Shibley: Mr. McAuliffe, when I examined you
before the recess, you had made reference to a telephone
interview between yourself and Mr. Smith conducted on
April 6, 1973. Is that correct?

Mr. McAuliffe: April 16, sir.

Mr. Shibley: Sixteenth? I am sorry. And it
was in the course of that conversation that you told this
committee that Mr. Smith told you he had been called by a
source close to the Cabinet and high up in the Progressive
Conservative party and told that the Globe was investigating.
Is that correct?

Mr. McAuliffe: That's correct, sir.

Mr. Shibley: And he further told you that he had
been warned to keep his mouth shut or that he would never
get another government job.

Mr. McAuliffe: That is correct, sir.

Mr. Shibley: And you were so impressed with the
significance of that evidence that you asked him to re-state
it?

Mr. McAuliffe: That's right, sir.

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Mr. Shibley: And he did re-state it?

Mr. McAuliffe: He did.

Mr. Shibley: And you made a note, a handwritten note, of what was said.

Mr. McAuliffe: I did.

Mr. Shibley: Now you have produced to me a card and I ask you to identify the card as the card upon which you made the note in question.

Mr. McAuliffe: That is it, sir.

Mr. Shibley: Yes. Now, that is made in your handwriting?

Mr. McAuliffe: It is.

Mr. Shibley: And the date indicated is April 16?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: Did you make that note contemporaneously with the conversation you had with Mr. Smith?

Mr. McAuliffe: Yes, sir.

Mr. Shibley: And you have preserved the record of it since that time?

Mr. McAuliffe: I have, sir.

Mr. Shibley: And this is the whole of the record that you prepared at that time?

Mr. McAuliffe: There were two cards, sir.

Mr. Shibley: Yes.

Mr. McAuliffe: One of them had the telephone numbers of three Donald Smiths that resided in London. I didn't know which one it was. And the only other note on that document was directions on how to get to Mr. Smith's offices in London. That note I did not keep.

Mr. Shibley: All right. May we have that made the next exhibit?

Mr. Chairman: Exhibit 174. It is only written on one side is it?

Mr. Shibley: Yes. I was just going to ask the witness. Now Mr. McAuliffe, having regard for the circumstance

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V.H.

(Mr. Shibley)

that the only entry on the card as to information provided ~~relates~~ relates to the significant passage in your article, can we take it that this was the information which you considered salient to the interview?

Mr. McAuliffe: It was, sir.

Mr. Shibley: And with respect to the absence of other data that Smith might have provided to you by phone, it was not then of comparable importance such that you transcribed it to note form?

Mr. McAuliffe: That is correct.

Mr. Shibley: Subsequent to the creation of what is now Exhibit 174, did anyone within the offices of the Globe and Mail observe this exhibit?

Mr. McAuliffe: I believe so, sir, yes.

Mr. Shibley: And what was the occasion on which that took place?

Mr. McAuliffe: After the telephone call with Mr. Smith, which was approximately ten minutes to eight on the ~~evening~~ evening of April 16. ~~-----~~

~~to~~

H-739 follows

June 27, 1973
10.30-10.35 a.m.
M.F.

H - 739 - 1

(Mr. McAuliffe)

~~telephoned Mr. Moser and discussed the matter with him for about 10 minutes in his office.~~ I left my office and went out to the news room and had a conversation with Ted Moser, the city editor.

Mr. Shibley: Would you carry on please?

Mr. McAuliffe: No, sir, that is all right, go ahead.

Mr. Shibley: What was the date of that again?

Mr. McAuliffe: April 16th.

Mr. Shibley: Yes; and in the course of that conversation did you, in turn, discuss the communication you had had with Smith?

Mr. McAuliffe: Yes, sir, I did.

Mr. Shibley: In particular did you discuss with Mr. Moser the statement which is the subject of this note?

Mr. McAuliffe: I did.

Mr. Shibley: All right. And did you show him the note?

Mr. McAuliffe: I had the note in my hand and read the quote to him. I don't believe I actually handed it to him as such. I don't think he could read my writing.

Mr. Shibley: As a result of that conversation was a conference subsequently held in the editorial offices of the Globe and Mail?

Mr. McAuliffe: Not a conference, sir.

Mr. Shibley: What took place?

Mr. McAuliffe: Well, he is my immediate superior and I told him that I wanted to go to London the next morning to meet with Mr. Smith, there were some scheduling problems and I would have to meet him the next day.

Mr. Shibley: Yes. I understand that when meetings are held that they are held in a circle?

Mr. McAuliffe: Well just to explain the setup of the meeting to you, sir, the cony desk is a large desk like this

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M.F.

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(Mr. McAuliffe)

one here. It is a circular desk that is divided in half and he sits at one portion of that desk, and it was at this desk that I went to him with the note in hand and discussed the contents of it with him.

Mr. Shibley: I see. Well that is as far as I would like to go with this witness at this time. Would you please leave the exhibit on the witness desk, Mr. ~~McAuliffe~~ *McAuliffe*.

Mr. Chairman: Thank you, Mr. McAuliffe.

Mr. Shibley: I would ask Mr. Ted Moser to be called as a witness please.

EDWARD HENRY MOSER, Sworn.

Mr. Shibley: Mr. Moser, what is your occupation?

Mr. Moser: I am city editor of the Globe and Mail.

Mr. Shibley: How long have you held that position?

Mr. Moser: ^{Since 1970} Three years.

Mr. Shibley: And in that position did you have any responsibility for the article dated April 30th, 1973, of this year, referable to Ontario ^{Head Office} Head Office building?

Mr. Moser: Yes I did.

Mr. Shibley: What was your first information in that respect?

Mr. Moser: Late last fall I had some conversations with Jonathan Manthorpe.

Mr. Shibley: And when you say late last fall, can you be more precise in point of time?

Mr. Moser: No, not really, it was very vague at that time. I know subsequently when it was, I think.

Mr. Shibley: I think the committee is only interested in knowing whether it was in November or December. Can you assist at all in that respect?

Mr. Moser: I don't think so. I had no written memos at that time.

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M.F.

H - 739 - 3

Mr. Shibley: But that was the first communication you had?

Mr. Moser: Yes.

Mr. Shibley: What was your next communication in this respect?

Mr. Moser: Well I discussed this story with Mr. Manthorpe, or the possibilities of the story with Mr. Manthorpe perhaps once a week for the next several weeks. There might have been a couple of days, ~~the~~ day after day we were discussing it.

Mr. Shibley: In the course of his discussions with you did he ever mention to you what he has already testified to before this committee, that ~~that~~ anonymous phone caller had said that he was cautioned to keep quiet?

Mr. Moser: I don't recall that he did. He may have but if he did it didn't register with me.

Mr. Shibley: All right. Then he spoke to you, off and on, on a weekly basis about it ~~was~~-----

Mr. Moser: For several weeks.

Mr. Shibley: For several weeks. What made the matter surface with more intensity?

~~Mr. Moser: I don't recall that he did. He may have but if he did it didn't register with me.~~

Page 4 - 740 follows

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10.35 to 10.40 am
fvk

Mr. Moser:

.....^{had}Partly it's just - we dropped it at a point ~~was~~ where Mr. Manthorpe said he had sort of a conflict of interest; then Mr. McAuliffe finished another project he was on and we were looking for something else. I ^{had}sort of reserved this for him to go on to when he ~~was~~ finished the other story and ~~was~~ it started from there. Coincidentally with that there were little bits of information, I can't recall specifically now, that kept coming to me, or to other ~~people~~ people. I kept it in the forefront of my mind that ^{it was}one of the stories ~~we~~ ^{we} should be going on and one of the senior editors of the Globe and Mail was also very interested in it and was pressing me to get somebody on it.

Mr. Shibley: Yes. Now, then, did you have a discussion with Mr. McAuliffe respecting the article?—I'm sorry, the investigation and possibility of an article?

Mr. Moser: Yes, I had a file that Mr. Manthorpe had given me and I gave it to Jerry and told him to get in touch with Manthorpe and look at what was in the file and then to investigate to see whether there was really a story. By this time, I thought there was. Initially, I ~~wasn't~~ wasn't sure.

Mr. Shibley: What was your next involvement with the matter?

Mr. Moser: I was in touch with Mr. McAuliffe for five ^{or} ten minutes a day or one ~~min~~ minute a day. He would just tell me he was ~~was~~ doing this, he ~~was~~ doing that, ~~was~~ getting nowhere. He ~~was~~ was having problems.

One evening he came bursting out of his office in great glee and exuberation with this and that was ^{he said}when ~~he~~ had hit paydirt.

Mr. Shibley: Can you remember precisely what his expression was to you on that occasion?

Mr. Moser: Yes. He said: "Jesus ~~Christ~~ Christ, I've hit paydirt."

Mr. Shibley: All right. I'm sure he enlarged upon what the paydirt was. What did he tell you?

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10.35 to 10.40 am
fvk

(Mr. Moser) Yes. He said that he'd been talking to one of the other people who had been invited to submit proposals on the building and this person ~~was~~ - he identified him as Mr. Smith of Ellis-Don^{he} ~~he~~ told me what he had pretty well testified to already ~~was~~ - and largely what figures^d in the second of our stories that -

Mr. Shibley: That's the April 30 story?

Mr. Moser: Monday morning, was that April 30?

Mr. Shibley: Yes, I believe so. Did he, on that occasion, mention to you that - first of all, did he identify the developer as Mr. Don Smith of Ellis-Don?

Mr. Moser: Yes, I think he did. He did, definitely, in a memo to me a couple of days later. I think he did at that time. Yes, he must have because ^{he, we} ~~we~~ discussed his going to London with him. Yes, he must have.

Mr. Shibley: Right. In that connection, would this discussion between you have taken place on the day before he went to London?

Mr. Moser: On the night before, yes.

Mr. Shibley: Did he have in his possession, on that occasion, the card dated April 16, 1973 which is now exhibit 174 and which is before you?

Mr. Moser: Yes, I'm sure he did. I didn't read it myself so I don't remember it but I remember him reading something and telling me what it was and several other things that had been said, too.

Mr. Shibley: I'd like you to look at the card now and advise the committee as to whether what Mr. McAuliffe told you on April 16, 1973, when he appeared to be reading from a document, was the same as what is on that exhibit?

Mr. Moser: Yes, it is.

Mr. Shibley: It is the same?

Mr. Moser: Yes.

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10.40 - 10.45 p.m.
M.R.

(Mr. Shibley)...

~~...about the Exhibit~~

~~Mr. Moser: Yes, it is~~

~~Mr. Shibley: It is the same~~

~~Mr. Moser: Yes~~

Mr. Shibley: And is it your belief that the document which is Exhibit 174 is the self-same document from which Mr. McAuliffe was providing the information to you on that occasion?

Mr. Moser: Yes, it is.

Mr. Shibley: Is there any doubt in your mind that that document was created contemporaneously with the date indicated thereon?

Mr. Moser: No. No doubt whatsoever

Mr. Shibley: And in any event, the information that was provided to you by Mr. McAuliffe on April 16, 1973, in respect of the statement by Smith that he had been called by a source close to Cabinet, high in the P.C. party, told the Globe was investigating and told to keep his mouth shut or he would never get another government job, that information was all imparted to you at that time by Mr. McAuliffe?

Mr. Moser: Yes.

Mr. Shibley: Including the portion of it wherein he reported to you that Smith had told him that he was to keep his mouth shut or he would never get another government job?

Mr. Moser: Yes.

Mr. Shibley: All right. I've no further questions of Mr. Moser, Mr. Chairman. I'd now like to ~~call Mr.~~ recall Mr. Smith.

Mr. Chairman: Thank you, Mr. Moser.

Mr. Shibley: Do you have a mike? ~~That's right.~~

Mr. Chairman, as I indicated earlier John Brownlie is now representing Ellis-Don because Mr. King is away on vacation.

June 27, 1973
10.40 - 10.45 p.m.
M.R.

(Mr. Shibley)

I have made reference to the fact that I had a phone call from Mr. Brownlie yesterday at 1.45 and received a document from him at 2.45. I would ask that the committee give Mr. Brownlie an opportunity to make a statement in that respect.

Mr. Chairman: Yes, Mr. Brownlie, if you would proceed please.

Mr. Brownlie: Mr. Chairman, thank you. I wanted to explain to the committee if I could how I became involved in this. I apologize that it's necessary to interrupt this committee's deliberations in this particular way.

My partner, Mr. King, has been called away ~~for~~ at this particular date - for a long-standing engagement. I knew nothing of this inquiry or of my client's, Mr. Smith's, involvement in it until Monday afternoon at approximately 4.00 ~~o'clock~~ o'clock, when Mr. King called me and asked me if I could see him later in his office, which I did at approximately 5.30

I spent about 15 minutes with him and during the course of which I was told approximately what the position was at that point in time in connection with this inquiry and I was handed the transcripts of the hearing to date. I took them home and read them. I may say incidentally, that I can beat Mr. Shibley's record of 1.00 o'clock by some bit.

~~The following morning~~ the reason I did this was that Mr. Smith was coming into our offices yesterday morning, and I met with Mr. Smith and another employee of Ellis-Don and Mr. King commencing yesterday morning.

I had been struck, on reading the transcripts, by the conflict between the evidence of Mr. McLaughlin on the one hand and of Mr. Smith on the other hand with respect to what

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M.R.


(Mr. Brownlie)

appeared to be, to me, at that time, a divergence in their emphasis on what transpired in connection with this Exhibit 174.

It seemed to me, if I may colloquially describe them, that Mr. Smith was referring to what he had been told as a warning or advice, and what Mr. McAuliffe was referring to it as a threat.

For that reason, when I met with Mr. Smith, ~~and~~ ~~and~~ knowing nothing about the background to it, I explored the area in that connection as closely as I could. Mr. Smith explained to me that ~~he~~ during the end of his testimony here, there was a pause in his conversation where he said - ~~excuse me~~. I don't remember the exact words - but where he said, "Excuse me, I was thinking of something else." ~~and~~ He explained that he had gone to speak to Mr. Shibley afterwards because he was trying to think of how ~~to~~.

H-742 to follow



June 27/73
10.45-10.50 a.m.
E.M.

H-742-1

(Mr. Brownlie)

~~and he explained that he had spoken to Mr. Smith's~~
~~wards because he was trying to find out how Mr. McAuliffe could~~
have received the impression that he had received a threat. As
a result of my enquiries with my client, it became apparent that
there was another person who had been spoken to by Mr. Smith and
it became apparent that there was a letter in existence which
was not in the Hydro file which was handed to this committee, so
I was advised, but rather was in a personal file of Mr. Smith's
which was in London.

I asked for that letter to be delivered up as soon
as possible to our offices from London and it arrived later that
morning, ~~and~~ As soon as I read it and discussed it with my client,
it became quite obvious that it was germane and that it should
be produced to the committee. Of course, with my client's
instructions I telephoned Mr. Shibley. I think that is all I
need say in connection with the letter in question, a copy of
which was ~~introduced~~ *given to Mr. Shibley*.

Mr. Shibley: Thank you, Mr. Brownlie. Just so
there is no misunderstanding, when Mr. Brownlie referred to
Exhibit 174 he was referring to the import of that document, not
that he had possession at any time of that document. I believe
I am correct in my belief that the Globe and Mail produced that
document to me and to me alone. That is correct, Mr. Brownlie?

Mr. Brownlie: Yes. ~~xxxxxxthatxxxxxxclarifiedxxxxxx~~

~~xx~~

Mr. Bullbrook: I am glad you clarified that because
you caught my eye at the time.

Mr. Shibley: Yes.

Mr. Brownlie: Mr. Chairman, excuse me, my learned

June 27/73
10.45-10.50 a.m.
E.M.

H-742-2

(Mr. Brownlie)

friend Mr. Genest has been confused by my use of the expression "Hydro file". By "Hydro file" I meant what I was told by my client was their little docket in connection with this matter, their file which they ^{had} ~~have~~ handed over to the committee, not something else.

Mr. Shibley: You mean Ellis-Don's file referable to the Hydro contract?

Mr. Brownlie: Yes.

Mr. Shibley: You will find, Mr. Brownlie, that precision is absolutely essential when you express yourself before this group.

Mr. Brownlie: I apologize, Mr. Shibley.

Mr. Shibley: Not at all. I must say that I think the committee is obligated to Mr. Brownlie for the high degree of professional ethics displayed by him respecting the production of the document to me, which is to be exhibited shortly.

Mr. Chairman: Mr. Smith, I would remind you that you were sworn likewise on a previous date

Mr. Shibley: Mr. Smith, I want to take you back somewhat respecting your earlier testimony and to refresh your memory and that of members of the committee.

You will remember that on February ~~the~~ 2nd you had a meeting with Mr. Candy?

Mr. Smith: Oh, yes.

Mr. Shibley: And on the occasion of that meeting on that date you received part of a memorandum which Mr. Candy had in preparation at that time. Is that correct?

Mr. Smith: Do you mean the specifications?

Mr. Shibley: Yes.

H-742-3

June 27/73
10.45-10.50 a.m.
E.M.

Mr. Smith: Yes.

Mr. Shibley: Then you said during the early part of February, and later in your testimony you have more precisely identified the time as being February ~~1973~~ 7th, you were at a dinner meeting with Mr. Zorafa and Mr. Tamblyn at Mr. Tamblyn's home. Remember that?

Mr. Smith: Yes.


Mr. Shibley: And it was on that occasion that you were told that they ~~were~~ celebrating at Canada Square and you lost your appetite? Remember that?

Mr. Smith: Yes.

Mr. Shibley: You also stated that as of that time you were not yet aware of the friendship which existed between Mr. Moog and Premier Davis. Is that correct?

Mr. Smith: That is correct.

Mr. Shibley: Then on the 17th of February, you wrote a letter to Mr. Gordon requesting a meeting. That is the letter, members of the committee, on which there is a notation ~~There is a notation on the letter that it is in the Premier's hand.~~



(Tape H-743 follows)

H 743 - 1

June 27/73
10:50 - 10:55 am.
M.S.

(Mr. Shibley)

There is little point in such a meeting. The matter is in the chairman's hands. You wrote such a letter, Mr. Smith, on the th 17 and you got an answer on February 22 from Mr. ~~Sissons~~ ^{Sissons}, to the effect that there was no point in a meeting at that time?

Mr. Smith: Yes

Mr. Shibley: Then you mentioned that on February 25 you met Mr. Gordon in Hawaii quite ^{ally} coincidentally. Right?

Mr. Smith: Yes.

Mr. Shibley: And you again discussed the matter with him and were assured that the thing was still an open contest?

Mr. Smith: That is right.

Mr. Shibley: Do I take it that you were still unaware at that time of any extraneous circumstances which might be influencing Hydro, in connection with this contract?

Mr. Smith: Yes. I didn't think any decision had been completed.

Mr. Shibley: Then on February 17 you also did a memorandum, wherein you yourself stated ~~any~~

Mr. Smith: What was that date again, please?

Mr. Shibley: On February 17 you did a memorandum in which you made reference to the fact that Dick Dillon should be contacted; he could open doors. Do you remember that memo?

Mr. Smith: Yes, I remember it.

Mr. Shibley: And perhaps John White should be spoken to. Is that correct?

Mr. Smith: That's right.

Mr. Shibley: Now, as at that date, February 17, being the same date you wrote to Mr. Gordon and the same date you were issuing a memo to your staff to establish lines of communication with people who "might be able to open doors," was your expression

Mr. Smith: That's right.

June 27/73
10:50 - 10:55 am.
M.S.

Mr. Shibley: ^Were you yet aware of the advantages available to Canada Square respecting this contract?

Mr. Smith: I don't believe I understand you completely.

Mr. Shibley: Well, I want to know what was your state of mind at that time as to what you considered necessary to be truly competitive in obtaining this contract?

Mr. Smith: I felt that Canada Square must have an inside track and probably that a decision had not been made. And ^{if} I was going to get consideration ^{then} I should have to start making people aware of our proposal.

Mr. Shibley: Yes. And, in particular, did you have in mind persons with influence?

Mr. Smith: I had in mind people with influence ^{who} ~~that~~ could let me know the status of the contract and make sure that we got a good hearing.

Mr. Shibley: Yes. Did you also communicate with Mr. Cronyn during the month of February, in respect of the matter? I will assist you, Mr. Smith. Before you say "no" ~~no~~

Mr. Smith: I wasn't going to say "no". I was going to say, "I don't remember" so you can assist me.

Mr. Shibley: All right. Mr. Cronyn testified at tape 675, page 2; I was asking him about the series of communications and I said, "When was your next communication?" ~~Well it would be later on...~~



Tape H 744 follows

June 27, 1973
10.55-11.00 am
V.H.

(Mr. Shibley)

~~I was asking him about a series of communications and~~
~~I said, "When was your next communication?"~~ "Mr. Cronyn: Well it would be later on I think in the spring of that year." It would be 1972. "When he again told me that he was trying to find out whether there was anything going on and wasn't making much progress, and I think that the next one really was, I guess, the spring of 1972 when he told me that he felt that he was getting the runaround and wasn't getting a proper hearing for his proposition."

On the next page, I asked him: "Did you do anything other than advise him to pursue the matter directly with Gathercole or Gordon?"

"Mr. Cronyn: Nothing, I was in no position to do that."

"Mr. Shibley: I see, you made no other efforts on his behalf?"

"Mr. Cronyn: No sir."

Then on page 672-2:

"Mr. Cronyn: I guess that I probably said that I believed it had nothing ..."

I am sorry. I must go back a bit. On tape 676, page 1:

"Mr. Shibley: In other words, it might have been as early as February 1972 when you had this conversation?"

"Mr. ~~EMM~~Cronyn: It could have been, yes."

"Mr. Shibley: Did he tell you at the time he discussed it with you of a conversation over dinner with Mr. Tamblin of Tamblin, Mitchell, that they were already celebrating at Canada Square?"

"Mr. Cronyn: No, he didn't go into discussion about Tamblin. He did say that he had heard that they already had the deal sewed up, that he had heard it from general discussion around the Toronto trade, but he didn't define. I read in the transcript that,

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10.55-11.00 am
V.H.

(Mr. Shibley quoting)

"Mr. Shibley: Do you have any comments to make to him in the course of that conversation referable to the possible ~~possible~~ effects of the friendship of Premier Davis with Mr. Moog upon the letting of the contract?"

"Mr. Cronyn: Pardon? I didn't ^{get} the ~~the~~ ~~the~~"

"Mr. Shibley: Did you make any comment to Mr. Smith?"

"Mr. Cronyn: No

"Mr. Shibley: As to the possible effects of the relationship or friendship between the Premier and Mr. Moog regarding the letting of the contract?"

"Mr. Cronyn: I guess I probably said that I believed it had absolutely nothing to do with it, no bearing on it at all. I think that is probably why I said ^{he} ~~you~~ should go and talk to Mr. Gathercole or Mr. Gordon."

"Mr. Shibley: From what he had said to you, however, it was implicit that he considered it had something to do with it?"

"Mr. Cronyn: Yes."

"Mr. Shibley: And when I ~~said~~ ^{said} it had something to do with it, I mean that Mr. Smith considered the friendship between Premier Davis and Mr. Moog had something to do with Canada Square getting this contract?"

"Mr. Cronyn: He looked at that as a possibility."

Now, Mr. Smith, I am trying to establish chronology and your thinking at particular points of time. With a review of that evidence ^{by} Mr. Cronyn, was it your thinking in the month of February 1972 that it was necessary for you to establish the communications indicated, including a communication with Mr. Cronyn, for the reason that you believed that the friendship between the Premier and Mr. Moog had something to do with Canada Square having it sewed up?

Mr. Smith: No sir. I think Mr. Cronyn's version of spring would be ~~at~~ when I called him, and talked to him.

H-744-3

June 27, 1973
10.55-11.00 am
V.H.

(Mr. Smith)

I am not just sure what you are driving at. I suspect that
you are driving at trying to say, ^{as did} ~~that~~ I write Mr. Gordon at
Mr. Cronyn's suggestion? That is not right, because I did
not know who ~~the general manager of Ontario Hydro was and I~~
~~looked it up or I found~~

H-745 follows

June 27, 1973
11.00-11.05 a.m.
M.F.

H - 745 - 1

(Mr. Smith)

who the general manager of Ontario Hydro was, and I looked it up, ^{or I} ~~and~~ found out the day before I wrote him. I certainly knew Mr. Gathercole was the chairman, and I looked it up somewhere and found that Mr. Gordon - that Mr. Cronyn did not prompt my letter to Mr. Gordon, if that is what you are -----

Mr. Shibley: No, that is not what I am getting at at all. Mr. Smith, I will take you a little further back.

In July of 1971 you had a discussion with Mr. Candy respecting this project, did you not?

Mr. Smith: Yes.

Mr. Shibley: And he gave you information that they were even then thinking of a lease-purchase transaction? Do you remember that?

Mr. Smith: Yes, that is right.

Mr. Shibley: And he told you that it should be kept confidential? And that it wasn't politically opportune to go forward with the project at that time?

Mr. Smith: Right.

Mr. Shibley: Then in September of that same year and prior to the election, you made contributions of \$2,000 and \$5,500 to the Progressive Conservative Party? Is that correct?

Mr. Smith: That is right.

Mr. Shibley: The election was in late October of that year. You heard nothing further about this project ^{during} ~~the~~ interim, between your discussion of July and that time. Is that correct?

Mr. Smith: That is correct.

Mr. Shibley: And you heard nothing further about it until the rumour on the street in December that they were going to do a lease-purchase and hadn't communicated with you?

Mr. Smith: I didn't hear a rumour on the street I don't believe.

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Mr. Shibley: Wasn't it you that initiated the communication with Hydro respecting the submission of a proposal in January?

Mr. Smith: I told you to the best of my recollection that Ian Stewart phoned me and he could have called Mr. Candy. Now I didn't hear ~~any~~

Mr. Shibley: But Hydro didn't initiate the communication with you, someone from your firm initiated it with Hydro. Isn't that so?

Mr. Smith: I would suggest that Mr. Stewart called Mr. Candy, but I do not recall whether he called Mr. Candy or Mr. Candy called him.

Mr. Shibley: And in fact at the time, it was already January 11, ~~and~~ you were asked to submit the proposal within 19 days.

Mr. Smith: 14 days.

Mr. Shibley: I am sorry. First it was 12 days, and then you asked for an added week end, it was 14.

Mr. Smith: That is right.

Mr. Shibley: And you were upset by this ~~and~~ I am sorry, not at that juncture - so you did submit a proposal on January 24th, having put a great deal of effort into the proposal. You had every man on your staff working on it, in the honest belief that you were going to get a fair shake?

Mr. Smith: That is right.

Mr. Shibley: And then you went to a dinner in February and were told by Bob Tambllyn that they were celebrating already at Canada Square; and this upset you?

Mr. Smith: He did not say that they had the job. He said they were quite happy and seemed to be - you can use the word celebrating - but they seemed to be ~~sure~~

Mr. Shibley: And with the history I have outlined to you in terms of your own thought processes, this disturbed you?

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Mr. Smith: That is right, yes.

Mr. Shibley: And you then decided to establish communication with certain people? Was it not because you suspected that there ~~were~~ were collateral reasons why Canada Square had the matter sewed up?

Mr. Smith: I suspected there were reasons.

Mr. Shibley: And you were intent on establishing your own contacts?

Mr. Smith: That is right.

Mr. Shibley: Well then I gather that after your — well did you then have a discussion with Mr. Cronyn, in February?

Mr. Smith: I don't recall a discussion.

Mr. Shibley: Well did you have a discussion ~~and~~ at any time in the spring of 1972 in terms of what Mr. Cronyn stated in the testimony that I have read to you?

Mr. Smith: I could have. I see Mr. Cronyn periodically. *Well, I see him periodically.* ~~We're~~

Mr. Shibley: Mr. Smith, isn't a fact that Mr. Cronyn is someone with whom you were in regular communication respecting this project during the year 1972?

Mr. Smith: I was not in regular communication with Mr. Cronyn asking him to do anything.

~~Mr. Shibley: That is not what I asked you. I asked you whether you were in regular communication with Mr. Cronyn during the year 1972.~~

Tape H - 746 follows

June 27/73
11.05 to 11.10 am
fvk

(Mr. D. Smith)

~~.....I was not in regular communication with Mr. Cronyn asking him to do anything.~~

Mr. Shibley: That's not what I asked you. I asked you whether you were in regular communication with Mr. Cronyn during the year 1972 ~~with~~ with respect to this project?

Mr. Smith: I kept Mr. Cronyn posted as to how it was going.

Mr. Shibley: Yes, and did you also seek his advice ~~from~~ from time to time?

Mr. Smith: It's a general question. It's a difficult - I would not say I was in close contact with him about this from time to time, no.

Mr. Shibley: Did you, from time to time, ask his advice as to how you should advance your own position ~~in~~ respecting the obtaining of this contract?

Mr. Smith: No, actually Mr. Cronyn was very ~~noncommittal~~ noncommittal with me on it because of his association with the government.

Mr. Shibley: That's not what I asked you, Mr. Smith. I asked you whether you ever sought his advice, or assistance, not whether he gave it?

Mr. Smith: Certainly, it wasn't a paramount thing in my mind to -

Mr. Shibley: I'm sorry, Mr. Smith.

Mr. Smith: I said it was not a paramount -

Mr. Shibley: You're not being responsible, ^{ve,} Mr. Smith.

I didn't ask you whether it was paramount.

Mr. Smith: No, but I think you're trying to take a different interpretation other than was there.

Mr. Chairman: Mr. Smith, I think ~~if~~ if you let the committee make the interpretation and you just answer the question.

Mr. Smith: Okay, ask the question again.

Mr. Shibley: Did you ever seek Mr. Cronyn's ~~advice~~ advice during the year 1972 as to how you might advance your own

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fvk

(Mr. Shibley)

situation in obtaining the Hydro contract?

Mr. Smith: Did I ever? Yes.

Mr. Shibley: And did you do so/^{on}more than one occasion?

Mr. Smith: Yes.

Mr. Shibley: And was one reason you sought his advice the fact that he was a person who might be able to influence Hydro in the selection of the developer?

Mr. Smith: No, I did not seek his ~~advice~~ ^{SOMEONE INFLUENCE} as a person who could influence Hydro. No I did not.

Mr. Shibley: Did you seek his advice as someone who might influence ~~a person who was in~~ ^{PERSONS WITHIN} the government?

Mr. Smith: No, I did not.

Mr. Shibley: Did he, in your thinking, fall into the same category as establishing contact with Mr. Dillon and Mr. White as per your memorandum to your staff?

Mr. Smith: No.

Mr. Shibley: Then, Mr. Smith -

~~Mr. Smith: I was considering Mr. C. G. Galt's position -~~

(Tape H 747 follows)

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M.R.

~~Mr. Smith: Well, Mr. Smith, I was sensitive to Mr. Cronyn's position and that is the reason for my answer.~~

Mr. Smith: I was sensitive to Mr. Cronyn's position and that is the reason for my answer.

Mr. Shibley: Well you'd best explain that answer. What do you mean when you say you were sensitive to his position?

Mr. Smith: I didn't think it would be right to ask a director of our company who also was working with the government to do me a favour.

Mr. Shibley: Did you think it right to inquire of him as to how you should go about having doors opened?

Mr. Smith: No.

Mr. Shibley: Then, Mr. Smith, you had

Mr. Smith: Doors opened & leave it at that.

Mr. Shibley: So that you might get a better hearing?

Mr. Smith: That's right. Not favours, but a hearing.

Mr. Shibley: You did consider that it was appropriate to approach him to ensure you got a better hearing. Is that correct?

Mr. Smith: To approach Cronyn?

Mr. Shibley: Yes.

Mr. Smith: I don't think I approached Cronyn to intercede for me.

Mr. Shibley: Did you approach Cronyn for advice as to who you should see or speak to, or how you should go about insuring that you got a proper hearing?

Mr. Smith: No, I do not think so.

Mr. Shibley: Well, Mr. Smith, you had a meeting with Mr. Candy on April 10th. Is that correct?

Mr. Smith: Yes.

Mr. Shibley: And as of that date, you were being reassured by Mr. Candy that it was still an open competition?

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Mr. Smith: Yes.

Mr. Shibley: And as of that date, you still had ambitions to succeed in obtaining this project for your own company?

Mr. Smith: That's right.

Mr. Shibley: Yes. So you hadn't let up one bit in terms of the efforts you were ~~exp~~ expending to obtain this contract?

Mr. Smith: No.

Mr. Shibley: No. In fact, you wrote him on the 11th of April saying "the interest rate has gone up and this will affect the rental rate²²?"

Mr. Smith: That's right.

Mr. Shibley: Right.

Mr. Smith: I believe at his request.

Mr. Shibley: Now Mr. Smith, in your earlier testimony, you said, on more than one occasion, that you learned of the friendship between Mr. Moog and the Premier in May of 1972.

I can give you the references, but twice 'round, on two different occasions that you were being examined by me, you gave that evidence. Do you remember it?

Mr. Smith: ~~Yes~~ I'd like you to read the evidence.

Mr. Shibley: I'd be glad to.

It's Hansard, Tape 635, Page 1.

"Mr. Shibley: I still want to get back to the matter of when you first were made aware of the friendship between the Premier and Mr. Moog which led us into this discussion that you had over dinner with Mr. Tamblyn. Are you telling the committee that it was not at that dinner meeting that the subject of the relationship between the ~~Rev~~ Premier and Mr. Moog₃ was raised.

"Mr. Smith: No, it was definitely not mentioned at that time; I did not know it at that time.

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"Mr. Shibley: When did you first become aware of the friendship?

"Mr. Smith: I am just trying to think, really. I am not sure. I am just not -

"Mr. Shibley: Could you give us a best estimate?

"Mr. ~~Smith~~ Smith: Well, it is kind of hearsay, and so I

"Mr. Shibley: Did you know it as at the time you wrote the letter to Mr. Gordon on the 17th of February?

"Mr. Smith: No, I think it must have been around May; it seems to come through to me.

"I am just trying to think. I didn't realize that Mr. Davis was a friend of Mr. Moog until long after. I would think it might have been May, to the best of my recollection. But then I seem to have heard it from people. I didn't realize it at any time up to the time we tendered, or anything like that."

Then again at Page 646 - Page 2 - Mr. Renwick was examining you.



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M.S.

(Mr. Shibley)

~~Mr. Renwick was examining you.~~

"Mr. Renwick: Now, my recollection, Mr. Smith, is that you were not particularly successful in tying down the point at which or the period of time during which you became aware of the friendship between Mr. Moog and Mr. Davis?

"Mr. Smith: I thought it was about May of 1972, but, Mr. Renwick, I just don't recall when I first or who told me first about it. I don't know.

"Mr. Renwick: You were certainly aware of it prior to the time when you had the conversation with Mr. Manthorpe of the Globe and Mail.

"Mr. Smith: Well, I talked to Mr. Manthorpe as a result of ~~Mr.~~ Manthorpe's article in the Globe and Mail. I think most of my knowledge came from the Globe and Mail, but I won't say positively that I didn't hear about it before."

Now, do you remember being asked those questions and making those answers?

Mr. Smith: Yes, I remember that.

Mr. Shibley: Mr. Smith, if you want to vary from ~~it~~ in terms of your best recollection, and I know that that's all it was at the time, ¹⁰ Was it May that was the time when you first learned of the friendship between Mr. Moog and Premier Davis? Or was it as early as February, when you had a conversation with Mr. Cronyn in that respect?

Mr. Smith: I am just trying to think. I can't -- it was not as early as February. I just don't remember the definite date and I have to go back to my previous testimony.

Mr. Shibley: Well, at the moment, I just want your best recollection at this time. Do you still say that your best recollection is that you first learned of it in May?

Mr. Brownlie: Mr. Chairman, excuse me. I wonder whether the counsel of the committee would, since he made references

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M.S.

(Mr. Brownlie)

to two places in the ~~transcript~~ transcript and the witness asked him to read them back; and when he read them back, in connection with Mr. Renwick's questioning, he didn't read the following sentence, which indicates another date?

Mr. Shibley: Oh, I'm sorry.

Mr. Brownlie: One is May and the next sentence where he stopped off in the transcript, refers to November or December of 1972. If that would perhaps assist the witness.

Mr. Shibley: I would be delighted to read that.

Mr. Smith has just given this evidence, "Well, I talked to Mr. Manthorpe as a result of Mr. Manthorpe's article in the ~~the~~ Globe and Mail. I think most of my knowledge came from the Globe and Mail, but I won't say positively that I didn't hear about it before.

"Mr. Renwick: The article in the Globe and Mail is one which I believe you said you thought Mr. Manthorpe had written in November or December of 1972.

"Mr. Smith: That is right, but I certainly was under the impression that Mr. Davis was a friend of Mr. Moog's before that.

"Mr. Renwick: Before that, and you think probably in May?

"Mr. Smith: Well, it comes to mind. I am just trying to rack my brain to try and think of when I first heard about it.

"Mr. Renwick: Could you help us in some ~~way~~^{way} to determine whether or not it was prior to the time when you wrote the letter to Mr. Seguin in August of 1972?

"Mr. Smith: I would say it was definitely before then.

"Mr. Renwick: Definitely before that time?

"Mr. Smith: That's my impression.

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"Mr. Renwick: Now, let's finish up that part of it. I would like to put this to you as a question and as a proposition."

MR SHIBLEY. The rest of it is irrelevant, I think.

^{I think,}
So that, Mr. Brownlie, I might tell you that there was a letter from Mr. Smith to Mr. Seguin, dated August 11 ---

Mr. Bell: 21.

Mr. Shibley: August 21 ---

Mr. Genest: 21.

Mr. Shibley: --- 1972, wherein he registered certain complaints. He didn't make specific reference to the friendship issue, but implicit in it was that he didn't consider he was getting a fair shake. Is that a fair commentary on your letter to Mr. Seguin, Mr. Smith?

Mr. Smith: Yes.

~~Mr. Shibley: Did you know by the time you wrote that letter, of the ...~~

Tape H 749 follows

June 27/73
11.20 to 11.25 am
fvk

~~(Mr. Smith)~~

~~Yes, that's right.~~

Mr. Shibley: Did you know, by the time you wrote that letter, of the friendship?

Mr. Smith: I would say I'd heard it by then, yes.

Mr. Shibley: I'm trying to be more precise however.

Your best recollection earlier had been that it was ~~doing~~ during the month of May, 1972?

Mr. Smith: I'm sorry. I can't give you a better recollection.

Mr. Shibley: You had a meeting, Mr. Smith, with Mr. Candy on May 30, 1972. ~~Is~~ Is that correct?

Mr. Smith: Right.

Mr. Shibley: Did you raise, with Mr. Candy at that time, the fact that you didn't consider you were getting a fair shake?

Mr. Smith: No.

Mr. Shibley: You didn't take it up with him?

Mr. Smith: No.

Mr. Shibley: Notwithstanding the conversation reported ~~was~~ upon by Mr. Cronyn, which he says took place in the spring of that year, you didn't translate any part of that into your conversation with Mr. Candy on May 30?

Mr. Smith: No.

Mr. Shibley: And notwithstanding what Bob ~~Tamblyn~~ ^{Tamblyn had} told you about them ~~celebrating~~ celebrating over at Canada Square as early as February 7, you never raised it with Mr. Candy?

Mr. Smith: No, & I didn't.

Mr. Shibley: I see. You met Mr. Candy again on June 2, 1972.

Is that correct?

Mr. Smith: I don't remember all the meetings. I remember I'd gone - I could have.

Mr. Shibley: Mr. Smith, were you still intent on succeeding in obtaining this project for your company as late as June 2, 1972?

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11.20 to 11.25 pm am
fvk

Mr. Smith: Yes.

Mr. Shibley: And you met with Candy on that date?

Mr. Smith: Yes.

Mr. Genest: *It's in the diary, isn't it?*
~~It's in the diary, isn't it?~~

Mr. Shibley: Mr. Genest, it's in Mr. Candy's diary.

Mr. Genest: I was having reference, Mr. Shibley, perhaps

it's my memory that fails me, but there was a meeting between ~~Mr.~~
Mr. Stewart.

Mr. Shibley: That's on June 26

Mr. Genest: Oh, I'm sorry. I didn't want that they be
confused about that one, because I think I advised the committee
that that had nothing to do with Mr. Stewart's looking for other
employment.

Mr. Shibley: We're going to get to that, Mr. Genest.

You did meet with Candy on June 27

Mr. Smith: I'm not saying no. I probably did.

Mr. Shibley: Did you raise with him at that time that
you didn't think you were getting a fair shake?

Mr. Smith: No, I didn't

Mr. Shibley: Mr. Stewart of your firm, he was your sort
of promotional man out to get contracts, was he not?

Mr. Smith: Yes. He didn't really get contracts. He
just made people ~~be~~ acquainted with what we did

Mr. Shibley: You know that he went to see Mr. Candy
on June 26?

Mr. Smith: Did I know that?

Mr. Shibley: Yes.

Mr. Smith: I don't remember knowing he went then.

Mr. Shibley: Following June 26, or on that date, did
you receive any form of communication from Mr. Candy referable
to the content of the discussion between ~~he~~ ^{him} and Stewart which took
place on that date?

Mr. Smith: I ~~can~~ do not remember receiving it.

Mr. Shibley: You don't remember?

Mr. Smith: No, I don't.

H-750-1

June 27, 1973
11.25-11.30 am
V.H.

{Mr. Shibley}

I might tell you Mr. Smith, and following Mr. ~~Smith~~ ^{Conest's lead} the diary entry has a handwritten note on it that he had been fired, "he" referring to Mr. Stewart.

Mr. Smith: Oh yes.

Mr. Shibley: ~~He~~ ^{he} he had been fired and was looking for a job. Had you fired Mr. Stewart by this time?

Mr. Smith: Yes. We call it resigned, you know!

Mr. Shibley: All right. But you had fired him?

Mr. Smith: Yes.

Mr. Shibley: In fact the parting was not a parting on amicable terms?

Mr. Smith: He didn't like being fired, I guess!
I don't think many people do.

Mr. Shibley: But you still didn't answer my question.

Mr. Bullbrock: But he was resigned to it!

Mr. Shibley: Well, that may be.

Mr. Smith: I don't know what you would call amicable terms. Nobody likes getting fired.

Mr. Shibley: Do you have any understanding as to why he would be attending upon Mr. Candy at Hydro looking for a job with Hydro? Having regard for the type of responsibility he has had with your company?

Mr. Smith: Mr. Stewart was a good ~~man~~ ^{man}. Mr. Stewart was an architect and he knew construction, and he was a good man. I imagine he was selling on everybody ~~really~~ ^{really}. I haven't actually heard from him since I fired him or spoken to him.

Mr. Shibley: Now, then, Mr. Smith, were you during the latter part of June in communication ~~with~~ ^{with} I am sorry. Were you at any time during the month of June in communication with Mr. Cronyn referable to this project?

Mr. Smith: I don't recall Mr. Shibley.

June 27, 1973
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V.H.

Mr. Shibley: You don't recall? During the period February through to the end of June inclusive, did you have any communications of any kind, written or oral, with Mr. Cronyn referable to this project, other than the one to Cronyn which Mr. ~~Maxx Smith~~ ^{advised} and respecting which I read you his testimony?

Mr. Smith: I would say no.

Mr. Shibley: I beg your pardon?

Mr. Smith: Excuse me, did you say contact or written?

Mr. Shibley: Any form of communication whatsoever.

Mr. Smith: I can't confirm or deny. I see Mr. Cronyn at meetings all the time and I could have said "How's Hydro" or something but not significant.

Mr. Shibley: Not significant.

Mr. Smith: Not something that would stick in my mind.

Mr. Shibley: And when I say communication I mean moving in either direction, from him to you as well as from you to him.

Mr. Smith: No.

Mr. Shibley: Did you have any communication with him during the month of July, 1972?

Mr. Smith: Yes.

Mr. Shibley: What was the first occasion of a communication with him during July?

Mr. Smith: I believe it is the letter that I have here.

Mr. Shibley: Was the letter your first communication with Mr. Cronyn during the month of July?

Mr. Smith: Yes.

Mr. Shibley: You had not had any previous discussion with him prior to the writing of the letter and this is the letter dated July 19, 1972.

June 27, 1973
11.30-11.35 a.m.
M.F.

H - 751 - 1

Mr. Shibley: You had not had any previous discussion with him prior to the writing of ^{the} ~~letter~~ letter, and this is the letter dated July 14, 1972?

Mr. Smith: I don't remember any, Mr. Shibley.

Mr. Shibley: There was no conversation between you and Mr. Cronyn on or before July 14, 1972, referable to the Hydro project?

Mr. Smith: In July?

Mr. Shibley: Yes.

Mr. Smith: I don't recall any, Mr. Shibley.

Mr. Shibley: I am producing to you a letter dated July 14, 1972, directed to Mr. John Cronyn - "John Labatt Limited, London, signed for Ellis-Don by D. J. Smith" - Do you recognize that as a copy of a letter which you sent to Mr. Cronyn on that date?

Mr. Smith: Yes, I do.

Mr. Shibley: May I have that made the next exhibit, Mr. Chairman?

Mr. Chairman: Exhibit 175.

Mr. Shibley: Now for purposes of identification, Mr. Chairman, on the face of the exhibit you will note it says: "Enclosure to Richard E. Shibley, Esquire, Shibley, Righton and McCutcheon, from John Brownlie, of Blake, Cassels and Graydon", and the notation on the face: "Received at 2.45 p.m., June 26, 1973, R.E.S."; that is my own notation so as to identify the time and date on which this document came into my possession and from whom it came into my possession. Of course, it is the document to which I and Mr. Brownlie were referring earlier.

Now starting with this letter, Mr. Smith, it starts off:

"I talked to Ernie Jackson about the Hydro job and he arranged a meeting with George Gathercole". Now who is Ernie Jackson?

Mr. Smith: Ernie Jackson is a friend of mine.

June 27, 1973
11.30-11.35 a.m.
M.F.

H - 751 - 2

Mr. Shibley: And was that the reason that you talked to Mr. Jackson about the Hydro job?

Mr. Smith: Yes.

Mr. Shibley: And the only reason?

Mr. Smith: Was that the reason I talked to Mr. Jackson?

Mr. Shibley: Yes.

Mr. Smith: No.

Mr. Shibley: Why did you talk to Ernie Jackson about the Hydro job?

Mr. Smith: I believe I talked to Ernie Jackson to see if he could arrange a meeting with Mr. Gathercole.

Mr. Shibley: Why did you think he could arrange a meeting with Mr. Gathercole?

Mr. Smith: Because I knew Mr. Jackson knew Mr. Gathercole.

Mr. Shibley: Mr. Smith, is Mr. Jackson any influence in the Progressive Conservative Party?

Mr. Smith: He is well known in the Conservative Party.

Mr. Shibley: You have been noted for your frankness and *the* candid manner in which you have given evidence to this point of time -----

Mr. Smith: I wasn't trying to evade anything because Ernie Jackson has been a friend of mine longer than he has been in the Conservative Party, I think.

Mr. Shibley: But in the context of talking to him about this project, why did you single him out? I am sorry, why was he singled out for communication by you?

Mr. Smith: Ernie is a very close friend.

Mr. Shibley: Yes. Was he another person who could open doors?

Mr. Smith: He could arrange a meeting with Mr. Gathercole I thought.

Mr. Shibley: Was this a continuation of the effort on your part to establish contact with people who could open doors?

June 27, 1973
11.30-11.35 a.m.
M.F.

H - 751 - 3

Mr. Smith: I wanted a meeting with Mr. Gathercole so I could tell my side of the story, and I asked Mr. Jackson if he could arrange a meeting.

Mr. Shibley: Who suggested to you that you should speak to Ernie Jackson?

Mr. Smith: I thought it up myself.

Mr. Shibley: It wasn't Mr. Cronyn?

Mr. Smith: No.

Mr. Shibley: Why did you write to Mr. Cronyn: "I talked to Ernie Jackson about the Hydro job and he arranged a meeting with George Gathercole". *Why are you -*

Mr. Smith: Mr. Cronyn is a director of our company.

Mr. Shibley: Did you make such a report to all of the directors of the company?

Mr. Smith: No, I didn't.

~~Mr. Shibley: How many of the directors of the company did you talk to?~~

Tape H - 752 follows

June 27, 1973
11.35-11.40 am
V.H.

(Mr. Shibley)

~~about the Hydro job and he arranged a meeting with George Gathercole. Why are you~~

~~Mr. Smith: Mr. Cronyn is a director of our com-~~
~~pany.~~

~~Mr. Shibley: Why are you did you make such a~~
~~report to the directors of the company?~~

~~Mr. Smith: No I didn't.~~

Mr. Shibley: Why did you single out Mr. Cronyn to make a report to him that you had spoken to Ernie Jackson?
MR. SMITH: I DON'T KNOW, REALLY.
Mr. Brownlie: Mr. Chairman, excuse me. I dislike finding myself in the position of interrupting and I don't mean to do it, but surely if the whole letter rather than the first sentence is put to the witness that answer might be ~~more~~ obvious.

Mr. Shibley: Well, this isn't the first time, Mr. Chairman, that this witness has seen the whole of this letter and I certainly intend to go through the whole of its content with him. You need to refresh your memory as to its content at this time, Mr. Smith? Or are you familiar with its content?

Mr. Smith: I am familiar with its content.

Mr. Shibley: In fact you reviewed this ~~letter~~ ^{letter} very carefully prior to your attendance today, have you not?

Mr. Smith: Yes I have.

Mr. Shibley: And when did you first review this letter in connection with these hearings?

Mr. Smith: I think probably before the hearings started.

Mr. Shibley: Yes. Did you not consider the document to be among documents relevant to the issues upon this hearing?

Mr. Smith: No I didn't think they were things that had been told you or told anybody else before.

Mr. Shibley: That's not what I asked you.

June 27, 1973
11:35-11:40 am
V.R.

Mr. Smith: No I didn't think it was quite relevant.

No.

Mr. Shibley: You didn't think it was that relevant?

Mr. Smith: No.

Mr. Shibley: So for that reason and that reason only, it was not produced.

Mr. Smith: I did not think it would add anything.^h

Mr. Shibley: I see. Were you aware of the issues as defined by this committee on the first day of my assisting the committee in that respect?

Mr. Smith: Yes.

Mr. Shibley: You were aware of that?

Mr. Smith: Yes.

Mr. Shibley: Had you read the -- had you been reading the transcript or been in attendance to hear my outline and explanation of those issues and what I considered to be evidence relevant thereto?

Mr. Smith: No I didn't read that.

Mr. Shibley: Did you hear the directive of this committee that all persons were to produce to me all documents relevant to those issues? Were you aware of that?

Mr. Smith: No, I don't think I was.

Mr. Shibley: I see. Well, Mr. Smith, let's return to the letter and see how relevant it really is. I still want to know; my last question to you was whether Mr. Cronyn had suggested to you that you should speak to Ernie Jackson.

Mr. Smith: No he did not.

Mr. Shibley: Why were you ^{reporting} ~~convinced~~ to Joan Cronyn about the conversation with Jackson?

Mr. Smith: Because in the last paragraph I asked him for his comments.

Mr. Shibley: About another matter?

Mr. Smith: No, I asked him -- No. I asked for ^{his} ~~his~~ comments. ~~and~~ I had gone to the point of frustration ^{with} ~~in~~ the Hydro and my letter ^{of} ~~on~~ July 14 was recording my progress to date and I was asking him for his comments. That is the reason ^{FOR THE LETTER}.

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REPORTING
~~recording~~

Mr. Shibley: Mr. Smith, I understand. You were

your progress to date to Mr. Cronyn.

Mr. Smith: That's right.

Mr. Shibley: And advising him of your frustration?

Mr. Smith: That's right.

Mr. Shibley: So that in fact you were in continuing communication with Mr. Cronyn respecting your progress on this project.

Mr. Smith: I kept him posted.

Mr. Shibley: Yes. All right. Then you go on and say ^{of} ~~that~~ Ernie Jackson -- "and he arranged a meeting with George Gathercole". Now, how was that meeting arranged?

Mr. Smith: Ernie called Mr. Gathercole and asked him if I could have an appointment with him.

Mr. Shibley: When was it ~~was~~ arranged?

Mr. Smith: I think you have the dates. I think ...

Mr. Shibley: That's a date I would like to straighten out with a you, Mr. Smith

Mr. Smith: I think we have given you the date ...

Mr. Shibley: .. you said earlier in your testimony. In your earlier testimony, you said that you had met with Mr. Gathercole on July 17 and that he then told you the matter was ~~pretty well decided for an attack on~~

H-753 follows



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M.R.

(Mr. Shibley)

~~on July 17th and that he then told you the matter was~~
pretty well decided, but on the basis of the date of this letter it appears that the meeting you had with Mr. Gathercole preceded July 17th and, in fact, preceded July 14th. Isn't that so?

Do you agree with me?

Mr. Smith: Certainly appears that way.

Mr. Shibley: Because it goes on and it says

"It was apparently a courtesy meeting and George could hardly wait until it was over." So I gather by July 14th the meeting had already taken place?

Mr. Smith: No, I can't swear to that, Mr. Shibley.

Mr. Shibley: Well, ~~whyxxxwixxxxxxx~~

Mr. Smith: Why can't we check Mr. Gathercole's — it could be a mistake in the date here? I thought my date pad said Mr. Gathercole on the — what date I gave you.

Mr. Shibley: You gave me the 17th, Mr. Smith, but according to this letter you said "it was apparently a courtesy meeting and George could hardly wait until it was over." So I gather that as of July 14th the meeting was over?

Mr. Smith: That's right. I gather from the date on this letter.

Mr. Shibley: And when you said "it was a courtesy meeting and George could hardly wait until it was over," what did you mean?

Mr. Smith: Didn't appear too excited to see me.

Mr. Shibley: Mr. Smith, I put it to you that what you meant was that Mr. Gathercole was merely going through an exercise.

Mr. Smith: That is right.

Mr. Shibley: ~~any~~ in holding that meeting. You agree with that?

Mr. Smith: That is right

Mr. Shibley: You have delightful phraseology, Mr. Smith, I might say

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Mr. Smith: You do it better than I do.

Mr. Shibley: And I gather that what you were intending by making that observation to John Cronyn was a complaint to John Cronyn that this was the sort of treatment you had received at that meeting?

Mr. Smith: No, it was not a complaint, I was just keeping John posted ~~and~~ I think it was almost a letter of frustration just saying I had had it ~~and I was~~ it just kept him posted ~~and~~ almost to the point that I was ready to throw in my hat and that was -- it was kind of a conclusive letter, I guess.

Mr. Shibley: Why was John Cronyn the man ~~that~~ you felt you should keep posted?

Mr. Smith: Because he was the man ~~that~~ I had asked previously if he knew anything about ~~we~~ what was going on at Hydro. The other directors didn't know anything. They are just in the furniture business and other things.

Mr. Shibley: And why might you think that he would know anything?

Mr. Smith: I would think that John could ask somebody if they knew anything about the Hydro job.

Mr. Shibley: And that somebody would be who?

Mr. Smith: That would be up to him.

Mr. Shibley: Well, who did you ~~have~~ have in mind that might be the ~~ex~~ person or persons to whom he might speak?

Mr. Smith: I didn't have anybody in mind.

Mr. Shibley: Well, you previously said that you thought he would know somebody to talk to.

Do you remember saying that?

Mr. Smith: I would think he would know somebody he could talk to.

Mr. Shibley: Did you have no one in mind when you thought he might know somebody?

Mr. Smith: No, not necessarily. I

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Mr. Shibley: I didn't ask you necessarily.

Mr. Smith: No.

Mr. Shibley: You had no one at all in mind?

Mr. Smith: No, I did not.

Mr. Shibley: Then you went on and you told John Cronyn. ["]He did mention that they would like to deal with someone who had previous experience with the government (who was obviously Moog) and who also had previous experience in management."

Now why did you make that statement and make the insert "(who was obviously Moog)"? What was in your mind when you made that statement?

Mr. Smith: Well, I believe that I had, as I say again, ~~that~~ the word was around that - I had certainly heard rumours that Mr. Moog was going to get the job.

Mr. Shibley: ~~Yes and by this time had you heard the rumours as to~~

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E.M.

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(Mr. Smith)

~~was going to see Mr. Moog~~

Mr. Shibley: By this time had you heard the rumours as to the fact that Mr. Moog was a friend of the Premier's? ~~PREMIER'S~~

Mr. Smith: I can't say definitely that I had heard he was a friend of the Premier's.

Mr. Shibley: Had you heard by this time that Mr. Moog had been given a head start by Hydro?

Mr. Smith: Define "head start."

Mr. Shibley: That they had been provided with the plans of the original buildings, ^{they had} had been working on drawings and working on a submission long before you were given the opportunity to do so?

Mr. Smith: No, I had heard that ~~I~~ I knew they were working on them back in February and I certainly suspected they were working on them prior to that.

Mr. Shibley: In the next paragraph, you state, ^{and} the second paragraph, "I understand that Gerry Moog started last February on drawings and that he is now working on detailed drawings, although no decision has been made by Hydro".

Mr. Smith: That is my understanding.

Mr. Shibley: Had you taken that up with Mr. Candy when you met with him?

Mr. Smith: No, I did not.

Mr. Shibley: In June?

Mr. Smith: No.

Mr. Shibley: You hadn't taken it up?

Mr. Smith: No.

Mr. Shibley: You hadn't confronted Mr. Candy and said, "I hear on the street that Gerry Moog is already doing

(Mr. Shibley)

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E.M.

drawings and ~~—~~

Mr. Smith: No, I had not. I'll tell you why.

Mr. Shibley: Why?

Mr. Smith: Because I was low bidder on a contract one time. I knew I was low bidder. I went into the owner and told him I was low bidder and wondered why I hadn't got the contract and I got tossed out of his office, so I don't do those sort of things.

Mr. Shibley: I would like to understand that last answer, Mr. Smith.

Mr. Smith: I think if you suspect that - well, let's say I would ^{rather} do positive selling than negative selling. Does that clarify it for you?

Mr. Shibley: No, it doesn't.

Mr. Smith: I don't think you get anywhere going in and running other people down. I think you are better to go and sell your own assets.

Mr. Shibley: Are you saying ^{it was} ~~that~~ pointless to take it up with Mr. Candy ~~because~~ ^{insofar as you were concerned?}

Mr. Smith: No, I don't think it would be advisable to go in and say, "I think you're - I hear you're working with somebody else" because you can't prove it; you can only hear a rumour, ~~and~~ I think you are wise not to go in and do ^{it} ~~it~~. I definitely would not do that sort of thing. I have heard rumours in the past where we might have lost a contract and I am sure if I went in and confronted the owner I would have lost it, whereas just waiting for circumstances to take their course you might end up with the job. I just don't like that way of ~~—~~

Mr. Shibley: Why did you think it necessary or important to communicate to Mr. Cronyn the circumstances that

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E.M.

H-754-3

(Mr. Shibley)

Gerry Moog ~~start~~^{started} last February on ~~the~~ drawings and is now working on detailed drawings, although no decision has^S been made by Hydro^{??}

Mr. Smith: That was purely for his information.

Mr. Shibley: Why did you want him informed as to that?

Mr. Smith: I might have communicated that to other directors at the same time. I did not, but I mean it's a ~~time~~ I was just writing him the state of the thing and telling him.

Mr. Shibley: ~~Did you intend that to in turn~~
~~communicate~~

(Tape H-755 follows)

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V.H.

(Mr. Smith)

~~writing him the date of this thing and telling him.~~

Mr. Shibley: Did you intend that he ~~and~~ in turn communicate that circumstance to anyone else?

Mr. Smith: No.

Mr. Shibley: You didn't?

Mr. Smith: No.

Mr. Shibley: ~~Did~~ Did you intend him to take any action on behalf of your company in that respect?

Mr. Smith: No.

Mr. Shibley: Were you hopeful that he might?

Mr. Smith: No.

Mr. Shibley: You ^{JUST} ~~just~~ wrote him to keep him informed?

Mr. Smith: I just wanted him to know that I was fed-up and frustrated.

Mr. Shibley: Well in that latter respect, Mr. Smith, - we will just give the air conditioning a chance to calm down! I thought it was somebody's breathing!

In that latter respect, when you say you wanted him to know of your frustrations, did you mean by that, your frustration by reason of the circumstance that ~~XXXX~~ Jerry Moog seemed to have the inside track?

Mr. Smith: No I would say, Mr. Shibley, it was my frustration. I thought I had done everything to try and get the contract and I was throwing in ..

Mr. Shibley: I think that is what this committee really wants to know. Were you frustrated because you had lost out or were you frustrated because you felt it had not been a fair competition?

Mr. Smith: Can't you put the two together?

Interjection by member.

Mr. Shibley: I want to know which it was.

Mr. Smith: It was frustrating because it was an unfair competition.

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Mr. Shibley: And was it that frustration that you intended to communicate to John Cronyn?

Mr. Smith: Yes.

Mr. Shibley: Then you went on in the next paragraph, Mr. Smith, and you make reference to the fact that, "If a person gets a \$28 per square foot building and pays rent on a \$30 per square foot building, the net gain to the developer is, I would think, in excess of \$10 million, although I haven't worked it out." Have you since worked it out?

Mr. Smith: We have worked out financial studies on it.

Mr. Shibley: Oh? In any event, we shouldn't accept that figure as necessarily accurate?

Mr. Smith: No. That is, I think, figure and it was written in the temper of the moment or something. That is not ...

Mr. Shibley: Actually, it was intended as an inflammatory remark was it not?

Mr. Smith: No. Information.

Mr. Shibley: Didn't you want to give him a figure which would excite some interest and anxiety on his part?

Mr. Smith: Not really.

Mr. Shibley: Did you not think when you said a difference of actual cost of construction of \$2 could result in a \$10 million differential that Mr. Cronyn would be interested and anxious about that fact?

Mr. Smith: I didn't think he would be, no.

Mr. Shibley: And you didn't intend him to have that information to in turn ~~be~~ impart to others? Is that what you are telling the committee?

Mr. Smith: I suppose I was ... I think you have got to read the whole paragraph. I think you have got to have access to people's books.

Mr. Shibley: Mr. Smith, I am not so much interested in the precise content of the paragraph as to your purpose in providing this kind of information at this particular time to this particular person.

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Mr. Smith: My -- give me your question.

Mr. Shibley: I want to know -- let's stand back for a moment. You were still, even as at this date, with ambitions to obtain this project for your company, were you not?

Mr. Smith: No. I gathered from Mr. Gathercole that there was no hope, and ~~I was probably the reason for~~

U-755 follows



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M.S.

~~I gathered from the Hydro report that there was no hope.~~ Probably the reason for that statement is that I hoped that Hydro watched their costs on the job.

Mr. Smith: No, I didn't hold out any hope at that stage, Mr. Shibley.

Mr. Smith: You don't have anything if you don't
have hope.

Mr. Smith: No.

Mr. Smith: It was not. No, definitely not.

Mr. Shibley: No part of your reasoning?

Mr. Smith: No.

Mr. Shibley: What was your reasoning?

Mr. Shibley: Did you have some concern, as a person who had made a submission and understood the specifications,

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(Mr. Shibley)

Is that the proposal by Mr. Moog would provide him with an inordinat^{TE} profit?

Mr. Smith: No, not at that time.

Mr. Shibley: Did you know of the terms submitted by Canada Square for this project as at this time?

Mr. Smith: No.

Mr. Shibley: Did you know, in particular, that Mr. Moog was proposing a building representing that it would have a cost of \$34 per square foot?

Mr. Smith: No. Wait, yes I did know that.

Mr. Shibley: Yes, I would have thought you did because that would be the reason for your comparing the consequences of a building costing \$28 ~~per~~

Mr. Smith: I wasn't trying to lie to you. I was just trying to remember.

Mr. Shibley: I realize that, Mr. Smith. I say to you, however, that would be the reason why you would be comparing the result.

Mr. Smith: That's right.

Mr. Shibley: That's right. So, you were aware, as at the time of the writing of this letter, that the basis upon which Hydro represented that it was selecting Canada Square was that they were saying they ~~were~~ would build a \$34 per square foot building. Is that right?

Mr. Smith: No, that's not right.

Mr. Shibley: What were you aware of that made you make this comparison?

Mr. Smith: I was aware that Hydro were going to build a building in excess of ³⁰ ~~34~~ a square foot.

Mr. Shibley: Now, who told you that?

Mr. Smith: Mr. Gathercole.

Mr. Shibley: But he didn't give you the precise amount?

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Mr. Smith: I don't recall him giving me the precise amount.

Mr. Shibley: And that would be at the meeting during the month of July?

Mr. Smith: That was at the meeting that did take place. Obviously we got our dates confused.

Mr. Shibley: Yes, I realize that, Mr. Smith. So, Mr. Gathercole told you at that meeting they were going to build a building at a cost in excess of \$30. Is that right?

Mr. Smith: That's right.

Mr. Shibley: And up to that point of time your first submission had been based on a \$26 building?

Mr. Smith: Yes.

Mr. Shibley: And then you were asked to make a submission on the basis of \$28 and \$30 per square foot. Is that correct?

Mr. Smith: Yes.

Mr. Shibley: And then at the meeting with Mr. Gathercole he told you they were going to build a building at a cost of more than \$30 per square foot?

Mr. Smith: I believe his terms were, "a little better than that," or something along that line.

Mr. Shibley: ~~Did he explain to you that that was one of the~~

Tape H 757 follows

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12.00 to 12.05 pm
fvk

(Mr. Smith)

~~.....were a little better than that or something along that line.~~

Mr. Shibley: Did he explain to you that that was one of the reasons why you were out of the ~~the~~ running, that they wanted a building having a value of \$34.00 per square foot?

Mr. Smith: No, not to my recollection.

Mr. Shibley: So ~~have~~ have you now ~~told~~ told us the whole of your reasons for writing to Mr. Cronyn on July 14 in terms of paragraph ³ of this letter?

Mr. Smith: Yes, sir, I have.

Mr. Bullbrook: Mr. Shibley, I ~~am~~ know you don't want us to interrupt. Would you permit me, please?

Mr. Shibley: Surely.

Mr. Bullbrook: I'm confused and perhaps I'm not able to grasp ^t ~~it~~. My notes say that the motivation for paragraph three, according to the sworn evidence of this witness, is that he hoped Hydro would watch the costs on the ~~the~~ job. I'd like you ~~to~~ to pursue the question ^{of} ~~on~~ how Hydro was going to know his motivation when he was writing to Mr. Cronyn?

Mr. Shibley: Thank you, Mr. Bullbrook~~s~~. ~~That~~ Mr. Smith, I had asked ~~you~~ you earlier whether you intended, by imparting this information to Mr. Cronyn, that he should, in turn, impart it to others?

Mr. Smith: That was not my intention in writing ~~the~~ the letter. It was only for his information.

Mr. Shibley: How do you reconcile that evidence with your statement that you wanted Hydro to watch Moog's costs?

Mr. Smith: Sorry, Mr. Bullbrook, I did not want Mr. Cronyn to take any — The intention of the letter was not that he would do anything. I pointed it out to him.

Mr. Shibley: Mr. Smith, please direct your mind to the question. How do you reconcile your two answers, one being ~~that~~ that you ~~did~~ did not intend him to impart this information to anyone else, ^{the} ~~the~~ the second being that you wanted Hydro to watch Mr. Moog's costs in the same way that you had volunteered to open your books for inspection?

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fvk

Mr. Smith: Give me the question again?

Mr. Shibley: I've asked you on more than one ~~x~~ occasion earlier, when you imparted this information in this letter to Mr. Cronyn, did you expect, or intend, that he would, in turn, pass the information on to others? Your answer was consistently: "No." Then, later on, you said your purpose in providing the information was that you wanted Hydro to watch Moog's costs in the same way that they would have had the opportunity to watch your costs by an inspection of your books. How do you reconcile those two ~~answ~~ answers?

Mr. Smith: I don't reconcile them. I did not want Mr. Cronyn to talk to Hydro. I think I ~~am~~ could say the same thing to other people ^{connected} ~~connected~~ with the building. I did not want him to take action on the thing and it was not my intention. I wrote him this as information.

Mr. Shibley: Mr. Smith, ^(if) you didn't want him to talk to Hydro, did you intend him ~~x~~ to talk to anyone or to take any action which would ensure that Moog's ~~his~~ costs were being closely watched by Hydro?

Mr. Smith: No, I didn't.

Mr. Shibley: Mr. Bullbrook, it's one of those situations - I'm sorry, where ~~you have to make your own assessment~~ you just have to make your own assessment of that evidence.

Mr. Bullbrook: I don't want you to ~~am~~ pursue ^{it} ~~any~~ further.

Mr. Shibley: I want to go on with the letter, Mr. Smith.

I felt that the proposal call was not all that complete and I thought that they would probably narrow their decision down to ~~am~~ two or three people and then get them to submit complete plans and specifications which could be judged on an equal basis."

Mr. Smith, this is consistent with what you said earlier in your testimony, is that correct?

Mr. Smith: That's right.

Mr. Shibley: And as late as July 14, 1972, were you under any illusions that there was still a chance that Hydro would ask for

(Tape H-758 follows)

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M.F.

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(Mr. Shibley)

~~that there was still a chance that Hydro would~~ ask for more complete - I am sorry, ask for submissions based on complete plans and specifications which could be judged on an equal basis?

Mr. Smith: I would say no.

Mr. Shibley: Then what was your purpose in communicating this information to Mr. Cronyn at that time?

Mr. Smith: Probably just a re^Statement of fact that I may have said to him previously.

Mr. Shibley: I beg your pardon?

Mr. Smith: Probably just a statement of my opinion on the contract.

Mr. Shibley: Mr. Smith, taking the content of the first page of this letter in its totality, didn't you intend to communicate to Mr. Cronyn a very strong feeling on your part that something should be done by somebody about the awarding of this contract to Mr. Moog?

Mr. Smith: No, that was not my intent in writing the letter.

Mr. Shibley: And I put it to you that the one person with whom you had close personal contact that you felt might be able to do something about the circumstances surrounding the awarding of this contract to Mr. Moog was Mr. Cronyn?

Mr. Smith: No, I did not ask Mr. Cronyn to do anything on it.

Mr. Shibley: That is not what I asked you. Is it not a fact that the one person known to you personally that you felt was in a position to take some action respecting the manner in which Hydro was allocating this contract was Mr. Cronyn?

Mr. Smith: I did not want Mr. Cronyn to take any action at any time.

Mr. Shibley: I didn't ask you whether you wanted him to, I will get to that, I said did you not identify him as the one

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(Mr. Shibley)

person known to you personally who was in a position to do something about it?

Mr. Smith: No. I think a lot of people might. I don't think he was the one person, no.

Mr. Shibley: I didn't say he was the one person, I said he was one of the persons.

Mr. Genest: ^{You} ~~He~~ said the one.

Mr. Chairman: I think you said just the one, but I don't think that was the intent of the ~~previous~~ -----

Mr. Shibley: I am sorry*. Mr. Smith, I know there are many people who might have done something about the way this contract was awarded. At the moment I am only interested in knowing whether as at July 14 you considered Mr. Cronyn to be one such person?

Mr. Smith: I don't think the purpose of my letter was to get Mr. Cronyn to do -----

Mr. Shibley: Mr. Smith, I am sorry, you are not being responsive. I am not now asking you for the purpose of your letter. You have made clear what your evidence is and the committee will have to draw its own conclusions in that respect. I am asking you now only whether you considered that Mr. Cronyn was one person among any number, to make it clear, who might be able to do something about the manner in which this contract was being let by Hydro?

Mr. Smith: No, I didn't consider him to be a person who could do something about the contract.

Mr. Shibley: Then why were you writing him in these terms?

Mr. Smith: Because I was stating facts and I wanted his advice.

Mr. Shibley: All right. Let's go on.

Mr. Chairman: Mr. Shibley, I know you would like to finish the letter. I am also mindful of the fact that Mr. Smith

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(Mr. Chairman)

has been in the box here for over an hour and a half now.

Mr. Smith: I don't mind.

Mr. Chairman: We spoke about 12.30, if you don't mind
carrying on for a while? ^{Mr. Smith:} ~~I don't know how much longer~~ ^{he has got} ~~is right~~.

Mr. Shibley: Well why don't we finish the letter and
then break for lunch, Mr. Chairman, if everyone is agreeable?
I am not saying I may be through with the witness by completing
the letter .

Mr. Chairman: I realize that, but I was just
thinking that Mr. Smith would be ~~entitled~~ ^{entitled} to a break.

Tape H - 759 follows

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M.R.

(Mr. Shibley)

~~...I'm not saying that I may be threatened. The witness
by the fact of completing the letter.~~

~~Mr. Shibley:~~

Mr. Shibley: The letter goes on: "I talked to Joe Barnicke last week and he suggested I might jeopardize any future dealings with the government if I stirred anything up on this job, and I might be wise to take Joe's advice and I would appreciate your comment, but I don't want to put you in any position of embarrassment at all".

Now taking that sentence apart, who is Joe Barnicke?

Mr. Smith: Joe Barnicke is a developer in the City of Toronto.

Mr. Shibley: Has he any connection with the Progressive Conservative Party?

Mr. Smith: I would say he has a connection with the Conservative Party, but I am not aware of what the connection is.

Mr. Shibley: Do I take it from that answer that he would be a person whom you would consider qualified to give you advice as to matters political?

Mr. Smith: No. I called him concerning matters building at the - the reason for my call.

Mr. Shibley: Did you consider him a person qualified to give you advice as to matters political insofar as they affected the construction industry?

Mr. Smith: No. I called him merely as a - on a building - you and I are probably semantics, but I called him - I'm not trying to evade it. The reason for my call is I think, different from what you are trying to infer.

Mr. Shibley: Why did you call him?

Mr. Smith: To the best of my recollection, I called Mr. Barnicke, and I can't recall the date and you're going to have to just go by the letters or whatever the dates are -

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(Mr. Smith)

I cannot recall it - I cannot recall the date. I called him in the afternoon. I knew that the weak point in our proposal was our management ability. And believe it or not, I'm a fighter in the construction business. I'm not much in testimony business, I guess.

Mr. Shibley: You are doing quite well, Mr. Smith.

Mr. Smith: I'm not used to it. I'm used to the construction business, let's put it that way.

I hate working hard on a contract, and losing them. I'm a very aggressive contractor. I was still trying to figure out some way I could come up with this job. I knew my weakness was management. I knew this was why they - one of the reasons they had turned me down.

I was trying to think of some asset ~~was~~ that I could add to my - to our proposal to make it - I was just really grasping at straws. I was just frustrated, and I'd put so much work into this thing and just to see it go I was just kind of discouraged.

Mr. Shibley: So you called Mr. Barnicke

Mr. Smith: I called Mr. Barnicke ~~xxxxxxxxxxxx~~

~~xxxxxxxxxxxx~~

Mr. Shibley: ... to see if he could suggest anything that might improve your proposal?

Mr. Smith: ~~xxxxxx~~ Again, to the best of my recollection, I called him and said, our weakness was management, ~~xxxxxx~~ do you have any suggestions? ~~xxx~~ I don't recall exactly what I said to him, but certainly what was in the back of my mind, and it may not have even got to that stage, was would there be any point if Barnicke did the managing and we did the building. ~~That was in my mind that whether I conveyed those exact words to him and...~~

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M.S.

(Mr. Smith)

~~Barnicke did not recognize me as being in the building.~~ That was in my mind, but whether I conveyed those exact words to him, or did he have any interest in talking about it.

Mr. Shibley: Mr. Smith, I believe you are a fighter. And you were still fighting for this contract as ~~at~~ *of* July 14. That's what you're telling us.

Mr. Smith: I was still fighting -- I was fighting an uphill fight, and was coming down fast.

Mr. Shibley: I realize that. But you were still fighting? You weren't down and out in your own mind?

Mr. Smith: ~~My own mind~~ -- I'm never out till I'm down, I guess.

Mr. Shibley: Mr. Smith, I just want to make the point. You were still fighting for this contract, ~~no~~ matter how remote you thought your chances?

Mr. Smith: I wasn't fighting, as I had pretty well given up. But I was still grasping at straws, let's say, rather than fighting.

Mr. Shibley: Yes. So, when you wrote to Mr. Cronyn outlining all of the circumstances of the contract as per page 1, you did have it yet in your mind that someone would be in a position to step in and review the method of allocation of this contract by Hydro?

Mr. Smith: Give me that again. I don't want you to ~~lose~~ *lose*.

Mr. Shibley: I'm now putting the question to you in the context of your last series of answers, Mr. Smith. You told us that when you called Mr. Barnicke it was because you recognized a certain weakness in your proposal. Is that correct?

Mr. Smith: Yes.

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(Mr. Shibley)

that he could hardly wait until it was over, That they wanted to deal with someone with previous experience, obviously Moog; That Moog had started in February on drawings, That a person who got a \$28 building, thinking he was getting a \$30 building, might, in effect, be affording a \$10-million ~~and~~ advantage to the developer, That the proposal call was not complete and you had expected that they would ~~in~~arrow the decision down and ask you to submit a proposal based on complete plans and specifications.

~~Was not all of that information provided to the person~~

Tape H 761 follows

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Mr. Shibley: And that you were a fighter to the bitter end, and although you realized you were fighting a losing battle, you were still fighting for this contract at that time. Isn't that correct? That's what you said.

Mr. Smith: I said I was grasping at straws and that's not quite the same as ~~grasping~~

Mr. Shibley: Well, it may be ~~grasping~~ grasping at straws, but your ambition at that time ~~was~~

Mr. Smith: My ambition was to see if I ~~am~~ could get the contract.

Mr. Shibley: Your ambition at that time was to see if you could get the contract. All right. In the light of that testimony, when you wrote this letter to Mr. Cronyn was your purpose in writing him to advance that ambition?

Mr. Smith: Well, I said I would appreciate your comments.

Mr. Shibley: Yes.

Mr. Smith: And I said, I don't want to put you in any position of embarrassment. In other words, I didn't want him to try to influence people. But I just wondered if he had any advice. Should I ~~do~~ I don't know.

Mr. Shibley: Just taking it one step at a time. Your ~~main~~ purpose in writing to Mr. Cronyn, then, was to advance your ambition to obtain this contract?

Mr. Smith: I think ~~yes~~ yes

Mr. Shibley: All right. Now then, in that connection ~~was~~

Mr. Smith: I might add that I think what I intended was ~~that~~ ^{did} he think I should keep pursuing it or pursue it further.

Mr. Shibley: Well, Mr. Smith, I remind you that among the information provided to Mr. Cronyn, was a review of the kind of meeting that George Gathercole has afforded you, namely,

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(Mr. Shibley)

that he could hardly wait until it was over, That they wanted to deal with someone with previous experience, obviously Moog; That Moog had started in February on drawings, That a person who got a \$28 building, thinking he was getting a \$30 building, might, in effect, be affording a \$10-million ~~and~~ advantage to the developer, That the proposal call was not complete and you had expected that they would narrow the decision down and ask you to submit a proposal based on complete plans and specifications.

~~Was not all of that to be made as provided during the run~~

Tape H 761 follows

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(Mr. Shibley)

~~and ask you to submit a proposal based on complete plans and specifications.~~ Was not all of that information provided to Mr. Cronyn in order that he could, in his turn, advance your ambitions to be successful in obtaining this project?

Mr. Smith: No. I think I acquainted him of the facts to make him realize ^E that I felt I had been unfairly treated.

Mr. Shibley: Yes.

Mr. Smith: And I asked him for his comments and I would think that if he did have comments, he would say, "Go and see Gordon Walker or go back to see Mr. Gathercole." I was merely seeking advice. I was not seeking -- I said "May I have your comments?" I didn't say "I want you to do anything." I just wanted -- he could say "If you are so upset, go and see Gordon Walker, or go back and see Mr. Gathercole if you are so upset."

Mr. Shibley: I want to clear up one thing immediately. You never did go and see Gordon Walker?

Mr. Smith: Never. No, I did not.

Mr. Shibley: ~~XXXXXX~~ Nor speak to him?

Mr. Smith: No, I didn't.

Mr. Shibley: Nor have anyone speak to him on your behalf?

Mr. SMith: No, I didn't.

Mr. Shibley: You know of no circumstance ^{why} ~~Mr.~~ Mr. Walker should disqualify himself from sitting on this committee?

Mr. Smith: No, I don't.

~~Interjections by two members.~~

Mr. Shibley: Let's return to the letter. You say: "I talked to Joe Barnicke last week and he suggested I might jeopardize any future dealings with the government if I stirred anything up on this job." Now when you discussed

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(Mr. Shibley)

the matter with Mr. Barnicke, what was it that made him say that you might jeopardize any future dealings with the government, if you stirred anything up on this job?

Mr. Smith: I don't think you would do yourself any good by -- I spoke to Mr. McAuliffe and I told him I didn't want my name mentioned. I don't think you would do ~~any~~ yourself any good business-wise by stirring things up and I ~~think~~ ^{think} Joe's remarks was just a cautionary business piece of advice.

Mr. Shibley: Did you tell Joe Barnicke about your feelings that you didn't get a fair shake on this contract?

Mr. Smith: I think I had got my message across that I wasn't happy and ~~and~~

Mr. Shibley: Did you tell him you didn't think it was a fair competition?

Mr. Smith: I don't recall my entire conversation. My recollection is that -- my prime purpose was to wonder if I could, if he was interested, maybe we could get him to manage the building and I am not sure if we even got that far in the conversation.

Mr. Shibley: So that ~~and~~

Mr. Smith: I did convey to him that I was striving for that contract. I would like to get it.

Mr. Shibley: But the main purpose of your conversation, you say, with him was to see if he would take up the management end?

Mr. Smith: That was my main purpose in calling him, yes.

Mr. Shibley: But you ~~earlier~~ ^{earlier} testified, Mr. Smith, that you dropped Sifton as a management partner because you were given to understand by Hydro that they didn't want to deal with two parties. You remember saying that?

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Mr. Smith: Yes, certainly I remember saying that.

Mr. Shibley: So then if you were looking for a management partner, & why didn't you just go back and get ~~S~~ Sifton who knew all about this deal?

Mr. Smith: Because Joe Barnicke is much more acquainted with the Toronto market and I thought maybe Sifton, being London, might be disqualified on the fact that he didn't know the Toronto area and that ~~and~~

Mr. Shibley: Was it in your mind that Barnicke, who understood politics as it related to construction, might be a better management partner?

Mr. Smith: I would think Barnicke would -- I would think as a developer he ~~would~~ would be more acceptable.

~~Mr. Shibley: Was that in your mind when you telephoned~~

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fvk

(Mr. Smith)

~~... I would think, as a developer, he'd be more acceptable.~~

Mr. Shibley: Was that in your mind when you telephoned him on that occasion?

Mr. Smith: I didn't get into any deep thought on the matter. As I say, I was, at this stage, grasping at straws. I thought ~~I~~ I would call Joe and see if he had any ideas.

Mr. Shibley: ~~In~~ Mr. Smith, I remind you now that you embarked on a route of establishing ~~several~~ contacts as from February forward and you were on a route of establishing contacts with Mr. Dillon and Mr. - not that you ~~did~~ in fact, contact them, but you mentioned John White and you ~~was~~ were in touch with Mr. Cronyn?

Mr. Smith: That's right

Mr. Shibley: And you were in touch with Joe Barnicke who has some connection politically with the Progressive Conservative but Party, the particulars of which are unknown to you?

Mr. Smith: That's right.

Mr. Shibley: Was this last communication, the one with series, Barnicke, part of the same ~~series~~ of communications on which you had embarked in order to advance your posture with Hydro respecting this contract?

Mr. Smith: Not to the same extent. I just asked Joe for advice.

Mr. Shibley: But you told this committee that you talked to him primarily about him becoming the management partner.

Mr. Smith: No, I didn't say I'd talked to him. I said I called ~~with~~ him with that in mind

Mr. Shibley: I see. Did you discuss with him the circumstance of his company becoming the management partner?

Mr. Smith: To the best of my knowledge we didn't even discuss that.

Mr. Shibley: Mr. Chairman, I'm going to be ~~recessing~~ some time yet and I can't even finish the ~~in~~ letter before we break. We have been at it for three solid hours - sorry, two and one half hours. I would appreciate recessing at this time.

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(Mr. Gaunt: Mr. Chairman, may I ask Mr. Shibley to
establish what developer, or the owner Mr. Barnicke represents?

Mr. Shibley: Yes, I'm going to go further into that,
Mr. Gaunt. Thank you.

It being 12:30 ^{p.m.} of the clock, the committee took recess.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
174.	738-2	Copy of note - April 16, 1973 - by Gerald McAuliffe re Telephone Conversation with J.D. Smith
175.	751-1	Letter - July 14, 1973 - From J.D. Smith to J. E. Cronyn re meeting with G. E. Gathercole

#28

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, June 27, 1973

Afternoon session

763-804

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee resumed at 2:05 o'clock, p.m.

Mr. Chairman: Ladies and Gentlemen, I call the meeting back to order. *Mr. Shibley, would you resume?*

Mr. Shibley: Mr. Smith, I direct your attention to the second page of the letter of July 14, 1972 which is now exhibit 175, and we were dealing with your conversation with Mr. Barnicke ~~and~~ wherein he suggested that I might jeopardize future dealings with government if I stirred anything up on this job."

Now then, was it part of your conversation with him that your opportunities to receive government contracts might be affected if you stirred anything up on this job? Using your own phraseology.

Mr. Smith: Was it - no, was it my opportunity to ~~do~~

Mr. Shibley: Was it any part of your conversation with Mr. Barnicke that your opportunities to received government contracts might be affected if you stirred matters up respecting the Hydro job?

Mr. Smith: No.

Mr. Shibley: Why did you say so in the ~~the~~ correspondence with Mr. Cronyn?

Mr. Smith: You and I have ^{probably} a different interpretation, eh?

Mr. Shibley: Would you please explain then what you mean when you say in this letter to Cronyn, "he", meaning Barnicke.

Mr. Smith: Right.

Mr. Shibley: "suggested that I" meaning Smith, "might jeopardize any future dealings with the government", would that mean the Government of Ontario?

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C.B.

Mr. Smith: Yes.

Mr. Shibley: And when you talk of "future dealings" does that mean construction^g contracts?

Mr. Smith: That's right.

Mr. Shibley: That would be construction contracts let by the Government of Ontario? Was that your meaning?

Mr. Smith: Yes.

Mr. Shibley: And B^garnicke ^gsuggested that you might jeopardize any future contracts for construction let by the government if you ~~stirred~~ stirred anything up on this job. "This job" being the Hydro job.

Mr. Smith: Right, yes.

Mr. Shibley: So was it part of your discussion with ~~B~~ Barnicke that you might be prejudiced in terms of receiving government contracts for the construction of buildings if you stirred matters up respecting the Hydro job?

Mr. Smith: Yes.

Mr. Shibley: Well, tell us about the discussion between you and Mr. Barnicke in that regard.

Mr. Smith: That was all there was to the discussion. That is why I did not feel this was pertinent. I ~~had~~ called Mr. Barnicke and I don't think I talked to him for more than five minutes. I don't think I talked to him for five minutes. And his parting comments was "I'd forget it, I wouldn't stir things up you could hurt yourself in the future, or you could jeopardize your company by stirring things up", and that was the end of the conversation. I said, "Thank you, Joe" and that was it.

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C.B.

Mr. Shibley: Later when you had interviews with representatives of the Globe and Mail, did you have the conversation with Barnicke in mind? Or was it the conversation with Mr. Cronyn?

Mr. Smith: I had the conversation with Mr. Barnicke in mind.

Mr. Shibley: You are clear on that?

Mr. Smith: I am definitely clear on that.

Mr. Shibley: The conversation that you were reporting to the press when you were interviewed was the conversation that you had had in early July with Mr. Barnicke?

Mr. Smith: That is right.

Mr. Shibley: Now do you consider Mr Barnicke is a person high in the Progressive Conservative Party?

Mr. Smith: No, I did not at the ~~time~~ time, no.

Mr. Shibley: Did you subsequently come to that conclusion?

Mr. Smith: No.

Mr. Shibley: Well you described him as such to the press, did you not?

Mr. Smith: I don't recall, Mr. Shibley.

Mr. Shibley: Do you recall the content of the article of April 30, 1973?

Mr. Smith: Yes I do.

Mr. Shibley: In that article it says that you were advised by a person high in the Progressive Conservative Party and close to the cabinet. Does Mr. Barnicke fill that description?

~~Mr. Smith: No, to my knowledge Mr. Shibley.~~

~~Mr. Shibley: Well then~~

H-764-1

(Mr. Shibley)

~~Does Mr. Barnicke recall that discussion?~~

Mr. Smith: Not to my knowledge, Mr. Shibley.

Mr. Shibley: Then how would you relate your report to the press that you had been advised to keep your mouth shut, to the discussion with Mr. Barnicke?

Mr. Bullbrook: Excuse me, Mr. Shibley, I just don't think really that that was the evidence of the witness.

Mr. Shibley: I would just like to get his present position, Mr. Bullbrook.

Mr. Bullbrook: I'm sorry, Mr. Shibley, go ahead.

Mr. Shibley: You can be assured that the witness will be ~~be~~

Mr. Smith: Give me the question again, will you?

Mr. Shibley: Pardon?

Mr. Smith: Can I have the question again?

Mr. Shibley: You earlier testified, Mr. Smith, that you did say that you had received a call from a person who was high in the Progressive Conservative party and close to the Cabinet. You said that much.

Mr. Smith: ^{No,} I don't think I said that. You'd better get the transcript

~~Mr. Smith: I recall saying "a person close to the Cabinet."~~
I don't recall saying "a person high up in the Conservative party."

Mr. Shibley: All right. Did you consider Mr. Barnicke close to the Cabinet?

Mr. Smith: No.

Mr. Shibley: ~~Remember that you were told to keep quiet?~~ And did you also tell the press that you had been told to keep quiet?

Mr. Smith: I don't recall the words.

Mr. Shibley: I thought the only issue that you had taken previously, Mr. Smith, was with the words that you should be quiet otherwise you would not get any government contracts. I thought it was the latter part of the quotation with which you took issue?

H-764-2

Mr. Smith: All right then, it's semantics.

Mr. Shibley: No ~~it~~^{is} it not semantics. Did you tell

Mr. Smith: I think it is.

Mr. Brownlie: Excuse me, Mr. Chairman, again I have tried to remain quiet throughout a series of these things. With great respect, my client is in an extremely difficult position. On the one hand he is being asked a whole series of questions which first of all relate to testimony he gave some time ago, and secondly, with respect, counsel to this committee has been asking these questions in many different ways. He gets an answer from my client, and then he comes back at ~~it~~^{him} again in a different way. Now with respect to the particular point we are discussing at the moment, my client has given an answer already in testimony about the effects, and when he says to counsel to the committee, with respect, that it is a question of semantics, that was the point of my opening address to this committee, Mr. Chairman, that in my view it is in very large part a question of semantics, because the problem that I take it that this committee is concerning itself with now is, are we talking about people who on the one hand gave advice, unsolicited or solicited advice ~~from~~^{to} my client, or are we talking about threats? That is the essence as I see it, with respect, of this problem. ~~when my client~~^{is} is being asked now to rephrase this thing so that he is in effect adopting what Mr. McAuliffe said in his story, I think that it is unfair to put it to him in the particular way it is being put. I apologize for interjecting.

Mr. Chairman: All right. I admit it has been asked many times in many different ways. I think the witness has been a little evasive in some of the answers. I think ~~that~~ furthermore that he is now trying to establish where ~~this~~ this threat came from and the document that was produced today would indicate it might have come from some other source.

Mr. Brownlie: With respect, Mr. Chairman, again you are using the word "threat".

H-764-3

Mr. Chairman: If there was a threat, ~~that~~ and I am almost looking at the document itself with that interpretation, ^t this document that was produced today, at least a warning.

Mr. Brownlie: There is a world of difference ~~between~~ —

Mr. Chairman: I agree.

Mr. Brownlie: ⁱⁿ ~~the~~ newspaper headlines, Mr. Chairman.

Mr. Chairman: Right.

Mr. Brownlie: And it is newspaper headlines that ~~that~~ a businessman is concerned about.

Mr. Chairman: Right.

~~Mr. Fulbright: I want to speak to the matter if I may as a member of the committee. I don't think the line of questioning, and I say this most respectfully, at the present time is unduly unfair or otherwise.~~

H-765-1 follows

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~~_____~~

Mr. Bullbrook: Well, I want to speak to the matter, if I may, as a member of the committee. I don't think the line of questioning, and I say this most respectfully, at the present time is unduly unfair or otherwise to the ~~witness~~ witness ^{- if} in view of ~~that~~ not a conflict of evidence, certainly what seems to my mind to verge on that. My understanding of the evidence without completely going over it ^{and} and this is why I did interrupt counsel ^{is} is the fact that I thought that there was no misunderstanding that the witness and evidence before us before had agreed that he had conveyed to either Mr. Manthorpe or Mr. ~~Mr.~~ McAuliffe or both the fact that he mentioned a source close to the Cabinet and high in the Conservative party. I examined the witness, if you recall, in ~~some~~ great generality.

I even said to him - "Did you ask or say anything that might lead a reasonable man to come to that conclusion?" His evidence was almost without reservation in that respect.

Now, our counsel is attempting to ~~also~~ elicit further information along that line, as I understand the intention of counsel.

Mr. Shibley: And a much more serious divergence has now taken place in the ~~also~~ evidence, Mr. Brownlie, namely for the first time this witness has changed the identity of the person to whom he was referring ~~and~~.

Mr. Brownlie: No, with ^{great} respect, Mr. Chairman, ~~that is not so~~

Mr. Shibley: Well, If you will give me the opportunity I will assist ~~the~~ the witness and counsel by reading transcripts which will make that clear.

Mr. Brownlie: Mr. Chairman, excuse me, if I may say this, Mr. Chairman, with great respect, the question that Mr. Shibley put to my client just now was, as I understand it: "When you were talking to Mr. Manthorpe, did you have in mind Mr. Cronyn or did you ~~you~~ have in mind Mr. Barnicke?" As I

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understand the ^{EMPHASIS IN} ~~question~~ the question, it was: "Did you have in mind Mr. Barnicke³", and of course the answer was "yes," but that doesn't ~~exclude~~ exclude Mr. Cronyn also. I really don't know where ^{THIS} ~~is~~ is going. I don't see ~~will~~

Mr. Shibley: Well, I ^{will} take you immediately to the evidence if you will give me the opportunity.

Mr. Renwick: Mr. Chairman, if I may ~~just~~ just interrupt. I think that the way it came through to me is that Mr. Smith was confused by the initial questions in his responses, and I think that Mr. Brownlie has indicated to some degree the area where the confusion arose. It came through to me that Mr. ~~Smith~~ Smith's confusion arose about whether or not ~~you~~ you were speaking about the conversation with Mr. Manthorpe or the conversation with Mr. McAuliffe, and perhaps if we could start over again, ~~the conversation with Mr. Manthorpe or the conversation with Mr. McAuliffe~~

Mr. Shibley: Yes, I would be glad to. Thank you, Mr. Renwick.

Mr. Renwick: ^{we might} ~~get to~~ get to what you want to get.

Mr. Shibley: I want to take you to the article of April 30, 1973. Would you please produce the article to ^{the witness} ~~the witness~~

Mr. Chairman: I believe he has it.

Mr. Shibley: And in particular that portion of the article in column one wherein you are quoted as saying: "A senior executive of one of the three unsuccessful firms that bid on the ~~project~~ project said he was called several weeks ago by a source close to the Ontario Cabinet and high in the Progressive Conservative party and told the Globe and Mail was investigating. 'I was told to keep my mouth shut or I would ~~never~~ never get another government job,' the company official said."

You were asked previously, and I ask you again, were you the ~~senior~~ senior executive who provided the information referred to in this article?

Mr. Smith: What information?

Mr. Shibley: Let's start with this. Were you the senior executive of one of the three unsuccessful firms that bid

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(MR. Shibley)

on the project and said he was called several weeks ~~ago~~ ago by a source close to the Ontario Cabinet?

Mr. Smith: Yes.

Mr. Shibley: And that the person who called you was high in the Progressive Conservative Party?

Mr. Smith: No.

Mr. Shibley: You didn't say that?

Mr. Smith: I don't recall saying that.

Mr. Shibley: Did you provide Mr. McAuliffe with the information that you were told that the Globe and Mail was investigating this?

Mr. Smith: Yes.

Mr. Shibley: Did you also say to him - "I was told to keep my mouth shut?"

Mr. Smith: Not at the same time. That is a confusion.

Mr. Shibley: Had you ever told McAuliffe or Manthorpe that you had been told to keep your mouth shut?

Mr. Smith: I had never been told to keep my mouth shut.

Mr. Shibley: You had never been told to keep your mouth shut?

Mr. Smith: No.

Mr. Bullbrook: That isn't the question.

Mr. Shibley: ~~Did~~ Did you ever tell Mr. Manthorpe ~~that~~?

Mr. Smith: I can't figure out the question.

I think he is trying to confuse me and I am trying to answer directly.

Mr. Bullbrook: ~~He is not trying to confuse you.~~ He is not trying to confuse you.

Mr. Smith: Well, I think he is.

Mr. Brownlie: With great respect, I think ~~that~~

Mr. Smith: I think he is trying to get me to say two things ~~and~~

Mr. Bullbrook: Mr. Brownlie, maybe you do find it confusing. I want to say this. The question was ~~that~~

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Mr. Smith: I find it confusing.

Mr. Bullbrook: ~~Not~~ whether Mr. Smith was told these things. It is whether he told Mr. McAuliffe or Mr. Manthorpe these things.

(H-766 to follow)

H-766-1

(Mr. Bullbrook)

~~not whether Mr. Smith was told these things, it is whether
he told Mr. McAuliffe or Mr. Manthorpe these things.~~

Mr. Wm. Hodgson: Or anyone.

Mr. Bullbrook: Or anyone, but we are interested in those two. But that was the question that our Counsel put to him and he keeps replying as he did the other day that he ~~wasn't~~ wasn't told this. Our Counsel isn't asking him that question.

Mr. Brownlee: The problem, with respect, Mr. Chairman, and this was what I discussed before, the problem is, what word do you use? The suggestion I get out of that article is that he said to Mr. McAuliffe that he was threatened; and the testimony of the witness, as I understand it, is that he was advised, and I find a world of difference between those two words.

Mr. Deans: Well, ^{let's} sort it out.

Mr. Renwick: That's a conclusion.

Mr. Deans: Let's first of all find out whether he said it.

Mr. Brownlee: Whether he said what?

Mr. Deans: Whether he said that he had been informed by someone.

Mr. Bullbrook: Let's have our Counsel continue.

Mr. Shibley: All right. Did you tell either Mr. Manthorpe ^{you} or Mr. McAuliffe that ~~were~~ were told to keep ~~your~~ your mouth shut?

Mr. Smith: I don't recall saying that to them.

Mr. Shibley: Did you tell either of them that you were to "keep your mouth shut or," and I am putting the emphasis now on the second part of this quote, or "I would never get another government job."

Mr. Smith: No.

Mr. Shibley: You never told them that?

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B.A.

Mr. Smith: I never said ~~~~~~~~~

Mr. Shibley: To whom were you referring when you referred to someone close to the Ontario cabinet?

Mr. Smith: I was referring to Mr. Cronyn.

Mr. Shibley: To Mr. Cronyn.

Mr. Smith: Right.

Mr. Shibley: And not to Mr. Barnicke.

Mr. Smith: That's right.

Mr. Shibley: Might what you have said to Mr. Manthorpe or Mr. McAuliffe have been a combination of what was said to you on the one occasion by Mr. Barnicke and on another occasion by Mr. Cronyn?

Mr. Smith: I would say no. I would say -- no. I would say there was no connection between the two comments.

Mr. Shibley: Well, earlier ---

Mr. Smith: I believe that Mr. McAuliffe has got -- he has run the two comments together, and I have been honest with you and I told you the other day that I could not figure out where the discrepancy was and I went up and told you that I sat back and I was trying to figure out where he was wrong, and I went up and told you and I now think I know the mistake he has made. That's my recollection.

Mr. Shibley: And then you went back and dug out the letter.

Mr. Smith: That's right.

~~Mr. Shibley~~

Mr. Shibley: Is that how it happened?

Mr. Smith: That's right. I went back and I went through all my files.

Mr. Shibley: Are you telling us, then, that the letter which is now produced was one of the documents that was shown to Mr. McAuliffe when he interviewed you?

Mr. Smith: No. I don't think the letter was shown to Mr. McAuliffe. I don't recall that it was, I ~~do~~ didn't see what

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(Mr. Smith)

Mr. McAuliffe saw, I wasn't there.

Mr. Shibley: Might it have been among the documents?

Mr. Smith: I don't know.

Mr. Shibley: You haven't checked ^{that} with your
secretary, Mrs. Shuttleworth, or Mr. Gordon?

Mr. Smith: I don't think he would have seen that
document.

Mr. Shibley: I'm sorry, Mr. Grant.

Mr. Smith: Yes. No, I don't think he....

(Tape H.767 follows)

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2.25-2.30 p.m.
M.F.

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(Mr. Shibley)

~~Mrs. Shuttleworth or Mr. Gordon.~~

Mr. Smith: I don't think ~~they~~^{he} would have seen that document, no.

Mr. Shibley: Or Mr. Grant?

Mr. Smith: I don't think he - I don't know, I don't think he would have seen that document.

Mr. Shibley: When you say he was putting the two together, where did he get the part that was contributed - well, where did he get the part about never getting another government job?

Mr. Smith: I think that when you decide to go into a thing like this you realize that you could jeopardize your company. I was fully aware, before I talked to the Globe and Mail, ^(of) the risk I would be taking, that it could jeopardize my company.

Mr. Shibley: You were aware of that because ~~-----~~

Mr. Smith: I was aware of that because I am a businessman and was ~~-----~~

Mr. Shibley: What I want to know is did you at any time communicate that thought to either Mr. Manthorpe or to Mr. McAuliffe?

Mr. Smith: I am sure I conveyed that - what are the words? I am going to be careful what I say to you. What are the words you want me to say? I mean, you tell me and I will tell you whether I agree or not but I am not going to ~~-----~~

Mr. Shibley: Mr. Smith, I ~~just~~^{only} want the facts.

Mr. Smith: That's all right, you tell me what they are.

Mr. Shibley: I want to ascertain precisely what you had to say to McAuliffe respecting keeping your mouth shut and getting government jobs.

Mr. Smith: All right. It may seem funny to you but I don't - in all honesty, I don't recall saying it, ^{but} I saw it in the paper, ~~it~~^{it} was a surprise to me. I figured he had taken things out of context and used them against me.

June 27, 1973
2.30 - 2.35 p.m.
M.R.

Mr. Shibley: Yes.

Mr. Smith: And I said because I got a call a while back or a few - it was more than a few weeks ago because I had recalled it in my mind as being January, ~~and~~ I said I got a call a while back saying that it was coming up in the House and I would probably get a phone call from the Globe and Mail.

~~Mr. Smith~~

Mr. Shibley: Did you tell him then that the person who had called you was close to the Cabinet?

Mr. Smith: Yes, I did. And I told him that - sorry, I lost my way

Mr. Shibley: Did you tell him at that time that that same person was high in the Progressive Conservative Party?

Mr. Smith: I don't remember my actual words, on that.

Mr. Shibley: All right. And the person to whom you were referring without identifying him to Mr. McAuliffe was Mr. Cronyn?

Mr. Smith: That is right.

Mr. Shibley: All right. At that point of time, you had not yet said anything about jeopardizing business with the government?

Mr. Smith: I said I don't recall saying it.

M Mr. Shibley: At that time?

Mr. Smith: Right.

Mr. Shibley: You do recall saying it to him as you were leaving the offices to return to Toronto?

Mr. Smith: No, I don't recall saying that.

t Mr. Shibley: Your secretary recalls it.

Mr. Smith: She recalls it.

Mr. Shibley: I see, but you don't recall it?

Mr. Smith: No, I don't.

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Mr. Shibley: And when you say, therefore, you believe he combined comments, it's a combination of your own comments made first in the morning and then later as you were leaving?

Mr. Smith: Yes. I think in the back of your mind when you decide to go ahead on a thing like this, you realize that you could hurt your business and that was the risk I decided to take. And this was paramount in my mind that I could - I might say the other developers made no comment on this. I decided that I thought it was morally right to do something.

Mr. Shibley: So that we get the record clear therefore, what you are saying is that you did tell him you got a call?

Mr. Smith: Yes.

Mr. Shibley: From Mr. Cronyn?

22 Mr. Brownlie: No.

Mr. Smith: I didn't name the person.


Mr. Shibley: Well, you did tell him you got a call from someone, who turned out to be Mr. Cronyn?

Mr. Smith: Right.

Mr. Shibley: But in an altogether unrelated comment, you told him you were concerned about the effects of your disclosures upon your business with government?

Mr. Smith: That's right.

Mr. Shibley: At no time did you say anything to Mr. McAuliffe or to Mr. Manthorpe which would connect the two ~~in the sense that~~...



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2.
2.35 - 3.40 pm

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AA

(Mr. Shibley)

~~which would connect the two~~ in ^{the} sense that you were ~~concerned~~
about loss of government business by reason of what this same
person ~~was~~

Mr. Smith: No, I did not say that.

Mr. Shibley: Pardon?

Mr. Smith: No, I agree with you.

Mr. Shibley: There was nothing to connect the two?

Mr. Smith: Nothing to connect the two.

Mr. Shibley: Neither did your secretary inform you
that she overheard anything ~~which~~ which would connect the two?

Mr. Smith: No. No, that is true. It was an interview
where we spoke and were fairly direct and at that end, ~~an~~ Anne
said as we were going out the ~~door~~ - Mrs. Shuttleworth said
as we were going - or at least she said I said as we were going
out the ~~door~~, ~~a~~ "I have been warned not to say anything that could -
I could lose ~~the~~ government contracts," or "I could jeopardize myself."
I wouldn't consider that part of the interview. It is ~~a~~ different -
it ~~was~~ an off-hand remark.

Mr. Shibley: Mr. Smith, you keep - I think we have got
it cleared up and then you give us a statement like the last one.

Mr. Smith: Okay, what is ~~say~~?

Mr. Shibley: Like, "I've been warned not to say
anything because it might ~~say~~."

Mr. Smith: Okay, I didn't mean "warn."

Mr. Shibley: Those are your words made quite spontaneously
Mr. Smith, and as I say, we seem to have put ~~it~~ to rest and
then you resurrect ~~it~~ again.

Mr. Smith: All right, then, you have taken the wrong word..
~~and I~~ ^{had} been told that it might hurt my business. I had never
been ~~say~~

Mr. Shibley: You had been ~~say~~

Mr. Smith: I knew it might hurt my business. You ~~don't~~

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AA

(Mr. Smith)

don't need to be very bright to know that.

Mr. Shibley: Did you tell McAuliffe, as you were leaving for your plane ride back, and in the presence of your secretary, that you had been warned it might hurt your business?

Mr. Smith: Well, as I say, I don't recall — I didn't recall it until she mentioned it.

Mr. Shibley: Your secretary remembers you saying, ~~that~~ "I've been warned it might hurt my business." ?

Mr. Smith: You have to ask her that.

Mr. Shibley: I will.

Mr. Smith: All right.

Mr. Shibley: But that is your present information?

Mr. Smith: How about the word "advise"?

Mr. Shibley: All right.

Mr. Smith: "Told." I think "told" would be ~~the~~

Mr. Shibley: All right. "I have been told."

Mr. Smith: Sure. All right, then ~~the~~

Mr. Shibley: So you told McAuliffe, "I ~~have~~ have been told not to say anything because it might hurt my business," or words to that effect?

Mr. Smith: Yes. That's right.

Mr. Shibley: But again, you did not connect that statement to having told him earlier that you had received a call from someone close to the cabinet?

Mr. Smith: There ~~is~~ ^{was} no connection between the two statements.

Mr. Shibley: And when you told him, "I have been told not to say anything because it might hurt my business," to whom were you referring?

Mr. Smith: I was referring to Barnicke.

Mr. Shibley: I see. And that's why you think there is a combination of information?

Mr. Smith: That's right. I believe that is consistent

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AA

(Mr. Smith)

with what I have told you from the very beginning.

Mr. Shibley: Except, Mr. Smith, I didn't have the benefit of your letter to Mr. Cronyn of July 14th earlier to help me understand.

Mr. Smith: Touché.

Mr. Chairman: The truth is always consistent.

Mr. R.G. Hodgson: Mr. ~~Shibley~~ Shibley, I wonder if the witness has any further recollections about the phone call of the night before?

Mr. Shibley: I would like to produce to you what is exhibit 174. Mr. Smith, you ~~will~~ heard Mr. McAuliffe give evidence that this is a note prepared by him contemporaneously with his interview with you by ~~Mr. Shibley~~ phone on April 16th.

H 770 - 1 follows

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2.40 to 2.45 pm
fvk

(Mr. Shibley)

..... on April 15 and you will note that it references a call by someone "close to cabinet and high up in the PC Party told Globe Investigating" "I was told to keep my mouth shut or I would never get another government job."

On the occasion of that ~~was~~ telephone interview did you provide this information to Mr. McAuliffe?

Mr. Smith: I guess I can say I don't recall, Mr. Shibley.

Mr. Shibley: Mr. Smith, I think it's going to be necessary for this committee to decide whether or not you accept Mr. McAuliffe's evidence in this respect.

Mr. Smith: That's true.

Mr. Shibley: He had said that he asked you to repeat it, that you said it twice. He had said that he had provided the information to his editor and that editor has ~~substantiated~~^r corroborated him in that respect as at this time. That's the evidence provided by the people at the Globe and Mail.

I want to know, for the benefit of the ~~the~~ committee, what your evidence is to be, as to whether you confirm or want to vary from the information that Mr. McAuliffe was provided to him by you on that occasion.

Mr. Smith: I don't confirm it.

Mr. Shibley: But you don't deny it?

Mr. Smith: I don't recall saying it.

Mr. Shibley: It is very important for us to know whether you are prepared to deny it because we've had people testify under oath in this respect and I want to know what we are to weigh that evidence against. Are you saying that you simply don't recall whether you made that statement to him or not?

Mr. Smith: I don't recall making that ~~my~~ statement to him at all.

Mr. Shibley: You're not prepared to deny that you made it?

Mr. Smith: I don't recall much of that conversation.

Mr. Shibley: I want it on record. You're not prepared to deny that you made that statement to him on ~~a~~ that occasion?

June 27/73
2.40 to 2.45 pm
fvk

Mr. Smith: No, I'm sorry. I don't recall that statement.
I disagree with the statement but I don't -

Mr. Shibley: Mr. Smith, I'm sorry.

Mr. Smith: Okay, I do not recall -

Mr. Shibley: It's extremely important to the deliberations of this committee when they weigh the evidence in this respect to know what, if any, evidence is contra to the evidence provided by the people from the Globe and Mail. I want to know whether you're prepared to deny that you made any part of this statement - I'm sorry - whether you're prepared to deny having made this statement in ~~the~~ whole or in part?

Mr. Smith: Could I talk to my solicitor on this?

Mr. Shibley: Certainly.

Mr. Renwick: Perhaps we could recess for five minutes.

Mr. Deans: Could we recess for five minutes?

Mr. Chairman: Yes, we could recess for five minutes.

The committee took recess at 2.45 p.m.

(Tape H.771 follows)

June 27/73
2:55 - 3:00 pm.
M.S.

The committee resumed at 2:55 o'clock, p.m.

Mr. Shibley: Mr. Smith, before the recess, I had been asking you about the document which is Exhibit 174, produced by Mr. McAuliffe of the Globe and Mail, and represented by him, under oath, to be an accurate statement of what you told him in the course of a telephone interview on April 16. ~~Now~~ ~~had you said you had no recollection of~~ the conversation. I had asked you whether you were telling us you were not prepared to deny it. And the reason ~~and~~ I want you to understand the reason ~~why~~ why I have put the question to you in that way is that this committee will ultimately be required to weigh the evidence respecting various issues, this being one of them. And, at the moment, we have very assertive evidence by Mr. McAuliffe respecting what you reported to him. We have your outline of evidence as to how the information might have been disseminated, so to speak.

I want to know, now, what your position is respecting the telephone interview of April 16. Are you prepared to deny that you gave Mr. McAuliffe, on that occasion, the information set forth in Exhibit 174?

Mr. Smith: I do not recall the words of the conversation. I did not tell Mr. McAuliffe, at any time, that I had been threatened, but I could have said that I was advised.

Mr. Shibley: His words are not "threatened". His words are, "I was told to keep my mouth shut." Did you tell him that on that occasion?

Mr. Smith: I don't recall saying that.

Mr. Shibley: And then it goes on, "Or I would never get another government job." So, eliminating the word "threatened" from the exchange between us for the moment, did you tell him, "I was told to keep my mouth shut"?

Mr. Smith: I don't recall saying that.

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2:55 - 3:00 pm.
M.S.

Mr. Shibley: But you're not prepared to deny that you said it?

Mr. Smith: I don't recall the conversation.

Mr. Shibley: So, you can't deny it?


Mr. Smith: I can't deny it, no.

Mr. Shibley: Nor any part of it?

Mr. Smith: I can't recall that conversation.

Mr. Shibley: And for that reason you are not in a position to deny any portion of what he reports your having said to him on that occasion?

Mr. Smith: No, I do not recall ~~that~~^{the} conversation that completely. I might add, as an addition to my evidence, that Mr. McAuliffe stated he wanted to come down and talk to us for three hours. ~~~~~



Tape H 772 follows

H-772-1

~~Mr. Smith: He never raised it the following day and he never raised it the following day.~~ And if I had said what he reports I have said you would think he would have brought it up the next day when he was talking to myself, or members of my staff.

Mr. Shibley: All right, let's get into that. Are you telling us that he never raised it the following day?

Mr. Smith: Yes. I don't recall him raising that point at all.

Mr. Shibley: And is your recollection in that respect consistent with that of your secretary and Mr. ~~George Grant~~ Grant?

Mr. Smith: Absolutely.

Mr. Shibley: He never raised it at all?

Mr. Smith: No. And if it was of such importance, why would he not mention it the next day?

Mr. Shibley: Before the recess, did I not understand you correctly to say that in the morning session you told him that you had received a call from someone close to the Cabinet at the time he interviewed you in London?

Mr. Smith: Yes, I told him.

Mr. Shibley: Then on the way out the door, on the way to the plane, your secretary remembers you saying that you had been told to be careful because it might affect your business?

Mr. Smith: That's right.

Mr. Shibley: And notwithstanding that you made those observations to him on the occasion of his visit on April 17, are you telling this committee that you made those observations without him having previously raised the content of his conversation with you of the 16th?

Mr. Smith: Yes, he did not raise the question of being threatened or being told to keep my mouth shut at all.

Mr. Shibley: You volunteered it?

Mr. Smith: I volunteered about the person close to the Cabinet phoning me, and he was very insistent to find out who that was, and I would not tell him. He started to name people's names and I refused to tell him.

H-772-2

Mr. Shibley: Yes.

Mr. Smith: That was one conversation; that was at the beginning of the interview. On the way out the door, my secretary said I said I had been advised to be quiet or told to be quiet or it could hurt the company in future dealings with the government, or any way you want to phrase it, that was the intent. And he did not question that at the time.

Mr. Shibley: What you are telling the committee then is that on the 17th you provided the information voluntarily without being asked about these matters ~~by~~^{by} Mr. McAuliffe?

Mr. Smith: I said, and I think it is on record so you can look it up without dragging it on.

Mr. Shibley: You seem to put some emphasis on the fact that he hadn't raised it. How long an ~~interview~~ interview did you have with him in the morning?

Mr. Smith: I would say 20 minutes; that was about what I thought.

Mr. Shibley: During what part of the 20 minutes did you mention to him that you had received this call from someone close to the Cabinet?

Mr. Smith: I said, I believe that that was when he first came in about 9:30. I am not sure whether that was when ^{he} first came in at 9:30 or when I first came back from my other meeting at 11:30. I am not sure about that.

Mr. Shibley: Was that one of the first things you mentioned to him?

Mr. Smith: That is what makes me think it was about 9:30, because I said "You fellows are causing quite a stir", and then I told him.

Mr. Shibley: So it was really unnecessary for him to ask you about it? You told him at the outset of the conversation?

Mr. Smith: That the ~~case~~

Mr. Shibley: That you had received this call.

Mr. Smith: That the government were concerned with the Globe and Mail. Pardon?

H-772-3

Mr. Shibley: Yes. That you had received this call.

Mr. Smith: I told him that yes.

Mr. Shibley: At the outset of the interview?

Mr. Smith: That's right. But he never brought the other


matter up.

Mr. Shibley: Mr. Smith, I want to direct your attention just for a moment to the interview you had with Mr. Manthorpe in late November or early December of the same year.

Mr. Smith: Yes.

Mr. Shibley: I want to read to you what Mr. Manthorpe said that you told him on that occasion.

H-773-1 follows



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2 :05 - 2:10 pm

C.B.

Mr. Shibley

~~I want to read to you what Mr. Manthorpe said that you told him on that occasion, and~~ It is in Hansard, Tape 703, page one *and page two:*

"Mr. Shibley: Yes. Now then, Mr. Manthorpe, I want to elicit from you the content of the conversation held between yourself and Mr. Smith on that occasion in November, starting firstly with the date on which that ~~conversation~~ occurred.

"Mr. Manthorpe: To my best recollection^o, it was either the last week in November or the first week in December.

"Mr. Shibley: Did you phone him or did he phone you?

"Mr. Manthorpe: No, he phoned me at about probably 2:30 in the afternoon."

Then later down -

"Mr. Shibley: Now the newspaper articles to which he made reference had nothing to do with Ontario Hydro's new head office building?

"Mr. Manthorpe: NO, they referred to the Wormken's Compensation Board's deal with Fidinam".

Then later down on the page 703 - 2,

"Mr. Shibley: So that you had only superficially been considering Hydro? Now, then, having told him that it was coincidental for the reason that you were thinking about an investigation, what was next said and by whom?

"Mr. Manthorpe: He then said the government is very nervous about that one. And then he said "someone close to the Premier's office has called me and asked me to keep quiet about it"

"Mr. Shibley: Now, did he say this to you at the outset of his discussion with you?

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2:05 - 2:10 pm

C.B.

"Mr. Manthorpe: Yes, it was very close to the beginning of the conversation, yes.

"Mr. Shibley: And do I take it then that he mentioned this ~~xx~~ ^x in the context of saying, notwithstanding that he had received this communication, he was nevertheless prepared to discuss it with you?

"Mr Manthorpe: He indicated that he was very upset by the situation."

Now in fairness to you, Mr. Smith, I want to read to you what your evidence was respecting the self-same interview. In Manisard, ~~xxx~~ ^{page} 672 -4. I'm sorry, I think I'll start back at -3.

" The whole purpose of your communication",

(This was with Manthorpe)

"was to instigate an ~~investigation~~ ^{investigation}. Isn't that so?

"Mr. Smith: I would say yes.

"Mr Shibley: And you were quite free with the information you were disseminating to him?

"Mr. Smith: That's right.

"Mr. Shibley: And I put it to you that part of what you were telling him, as you told McAuliffe later, is that you had received this call from someone high in the party sometime previously?

"Mr. Smith: No.

"Mr. Shibley: You wouldn't think that would excite interest on the part of an investigative reporter?

"Mr. Smith: I don't think I had received the call when I talked to Manthorpe.

Mr. Shibley

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2:05-2:10 pm

C.B.

"Mr. Shibley: You are saying, as at the time you spoke to Manthorpe —

"Mr. Smith: I hadn't talked to Cronyn.

"Mr. Shibley: All right; that is helpful because Manthorpe and you spoke in November?

"Mr. Smith: Yes.

"Mr. Shibley: According to your recollection?

"Mr. Smith: That's right.

"Mr. Shibley: And ~~your~~ ^{your} recollection was that your conversations ~~were~~ with Mr. Cronyn were in December. Is that right?

"Mr. Smith: That's right.

"Mr. Shibley: Then you had your interview with McAuliffe in April."

And I want to skip down —

"Mr. Shibley: If he —
(and I'm talking about Manthorpe)

— has a recollection of you telling him also of this communication from someone close to the cabinet, etc.

"Mr. Smith: Yes.

"Mr. Shibley: That would necessarily be after your call with Mr. Cronyn?

"Mr. Smith: No.

"Mr. Shibley: Well, it couldn't be the other way around.


"Mr. Smith: I think he is wrong in what he says.

"Mr. Shibley: As far as you are concerned, you never had any conversation with Mr. Manthrope referable to a communication from an unidentified person close to cabinet?


"Mr. Smith: That's right.

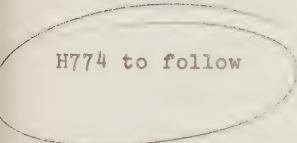
"Mr. Shibley: All right?"

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2:05 - 2:10 pm
C.B.


Mr. Shibley, Now you realize, Mr. Smith,
that there is in those two excerpts from the evidence ~~the~~ a
conflict between what you say you discussed with Mr. Manthorpe
and what he says was discussed at that time.

What I want to know now is, having refreshed
your memory by reference to the letter that you wrote to
Mr. Cronyn on July 14, 1972, wherein you referenced the
fact that Barnicke had suggested "I might jeopardize
any future dealings with the government if I stirred
~~anything up on this job, and I might be wise to take~~...




H774 to follow

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3.10 - 3.15 p.m.
M.R.

(Mr. Shibley)

~~jeopardize any future dealings with the government if~~
~~I stirred~~ anything up on this job and I might be wise to
take Joe's advice.

Having regard for the fact that you had had such
communication in July of 1972, with Mr. Cronyn, have you any
comment to make

Mr. Smith: What did you say? I had which?

Mr. Shibley: You had a communication with
Mr. Cronyn by letter of July 14, 1972.

Mr. Smith: I didn't have communication with
Mr. Cronyn.

Mr. Shibley: You wrote to him.

Mr. Smith: I ~~was~~ wrote to him.

Mr. Shibley: Did he not respond to this letter?

Mr. Smith: No.

Mr. Shibley: Did he not answer it in any form?

Mr. Smith: No.

Mr. Shibley: He didn't talk to you about it?

t Mr. Smith: No.

Mr. Shibley: Absolutely no response whatever?

Mr. Smith: Absolutely nothing.

Mr. Shibley: Nothing in writing, nothing by
telephone, nothing in personal conversation with you?

Mr. Smith: That's right.

Mr. Shibley: Did you

Mr. Smith: And I can give you a - I have never
asked Mr. Cronyn as I stated to intercede for me. Mr. Cronyn
has never interceded for me. He did not reply to this letter
and the only evidence I can give you that will verify what I
am saying is that Mr. Cronyn is a director of our firm and we
built the Labatt's Brewery out on 401 and Mr. Cronyn is a
believer in management contracts and I am a believer in lump
sum general contracts and there is quite a divergence of opinions.

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M.R.

(Mr. Smith)

And when we built the Labatt Brewery, there was a disagreement on - not with Labatts, but on the method of whether it could have been built better on a general contract method or a management method.

And I called my senior people together and I worked for - I don't know - maybe half a day or a day, writing Mr. Cronyn a report on our stand on this contract, a very lengthy report and I asked him for his comments and I did not get a reply to that letter either. To me that would be a much more significant letter than this.

And I did not get a reply at that time either.

And I ~~recall~~

Mr. Shibley: You know that Mr. Cronyn himself gave evidence that having read in the newspaper in December of 1972 about the questions tabled by Mr. Nixon in the House, that he went to speak to Mr. Fleck about the Hydro contract?

Mr. Smith: Yes.

Mr. Shibley: And you know that he said that after he had his discussion with Mr. Fleck he called you?

Mr. Smith: Yes.

Mr. Shibley: Now, are you telling this committee that notwithstanding Mr. Cronyn displayed that kind of interest in December, respecting the matter of the Hydro contract, your letter with all that it imputed, did not ~~also~~ elicit from him any form of response whatsoever?

Mr. Smith: No, I don't recall getting an answer on that letter at all.

I said no and I'm willing to stand by that.

Mr. Shibley: I want to be clear. Are you saying you don't recall or you did not get a response?

Mr. Smith: I did not get a response, to that letter.

Mr. Shibley: In any event, I don't want to lose the benefit of having read to you the excerpts of Mr. Manthorpe's statement as to what you said to him in the interview you gave him

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M.R.

(Mr. Shibley)

by phone on your own initiative and at a time when you remain^d anonymous.

Mr. Smith: Right.

Mr. Shibley: You did make those calls to him?

Mr. Smith: ~~unintelligible~~ It appears so.

Mr. Shibley: Pardon?

Mr. Smith: I answered that before.

Mr. Shibley: Yes, you did. And what I'm wondering about, Mr. Smith, is whether Mr. Manthorpe's memory of your having told him of receiving a call from someone close to the Cabinet is correct, notwithstanding that it preceded Mr. Cronyn's call to you of December 15th.

H-775 to follow

June 27th, 1973

3.15 - 3.20 pm

H 775 - 1

AA

(Mr. Shibley)

notwithstanding that it provided Mr. Cronyn's name to you
of December 15th. Do you follow what I am asking you?

Mr. Smith: I thought you were telling me.

Mr. Shibley: I'm wondering, at the moment, what
I am asking you about is, did you receive a communication from
Mr. Cronyn, subsequent in point of time to July 14th, 1972,
when you wrote him the letter, exhibit 175, and prior to your
interview with Mr. Manthorpe, during the latter part of November,
1972.

Mr. Smith: I don't ~~recall~~ recall any - I could have. Mr.
Cronyn is a director of our company..

Mr. Shibley: And might he have already told me.

Mr. Smith: Good heavens, I ~~and~~.

Mr. Shibley: ~~Yes~~ yes?

Mr. Smith: I see him all the time.

Mr. Shibley: All right. So you might have seen and
spoken to him during that interval? Is that correct?

Mr. Smith: Certainly, I see him and speak to him.

Mr. Shibley: Well, did you see him during that interval?

Mr. Smith: Certainly.

Mr. Shibley: And notwithstanding that you saw ~~him~~.

Mr. Smith: He's got a cottage next door to me - you
know, I'm not ~~blind~~ blind.

Mr. Shibley: Yes and these were summer - these were
cottage ~~fronts~~ fronts.

Mr. Smith: That's right.

Mr. Shibley: And might he not ~~have~~ already have said
to you, "You'd best be quiet,"?

Mr. Smith: Mr. Shibley, you have to know Mr. Cronyn.
He is not that type of person.

Mr. ~~Shibley~~ Shibley: What I am trying to do, Mr. ~~Smith~~.

Mr. Smith: No, he did not tell me to be quiet. He has

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AA

H 775 - 2

(Mr. Smith)

never told me to be quiet. He is not that ~~man~~.

Mr. Shibley: You see, Mr. Smith, what is bothering this committee, I am sure, is Mr. Manthorpe says that you called him in late November, and you confirmed that, / ~~yes~~.

Mr. Smith: Right!

Mr. Shibley: ~~and~~ and you told him that you had received a call from someone close to the Cabinet and were told to be quiet.

Mr. Smith: Mmmmmmm.

Mr. Shibley: That's his ~~testimony~~ evidence.

Mr. Smith: That I received a call?

Mr. Shibley: That's his testimony that that's what you told him on the occasion of your anonymous call ~~to~~ to him; that he was on the right track and that you got this call. Now, what I want to know is whether you had already received a call from Mr. Cronyn, prior to your having called Mr. Manthorpe in the latter part of November.

Mr. Smith: ^{All right, my} ~~yes~~ answer is no.

Mr. Shibley: You see, up to this point in time, until to the point of time when the letter of July 14th was produced, the only communication we thought you had had with Mr. Cronyn, in this respect, was his call of December 15th, which was out of chronological order for the interview with Mr. ~~Manthorpe~~ Manthorpe. Now, you were in communication with him in July of 1972?

Mr. Smith: He lives next door to me ^{up} at the lake.

Mr. Shibley: Well that's ~~well~~ what I want to know.

Mr. Smith: I am bound to say hello to him.

Mr. Shibley: Well, that's what I want to know. I am quite anxious to ~~ascertain~~ ascertain what Mr. Manthorpe testified to was correct or not.

Mr. Smith: I didn't receive a call. I am sure when

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3.15 - 3.20 pm

H 775 - 3

AA

(Mr. Smith)

I spoke to Mr. Manthorpe, I had Mr. Barnicke's advice in mind.

Mr. Shibley: So you might have said to Mr. Manthorpe,

"I have been told to keep quiet."

Mr. Smith: Oh, I might have said that to Mr. Manthorpe,

yes.

Mr. Shibley: Yes, but when you said that ^{to} him you

had Barnicke in mind.

Mr. Smith: That's right.

Mr. Shibley: We got that far then in respect of what Manthorpe has reported.

Mr. Smith: Right!

Mr. Bullbrook: Well, would you refresh my memory for a minute?

Mr. Shibley: Yes. I am going to go back, if you would.

Mr. Bullbrook: Good.

Mr. Shibley: Mr. Manthorpe's complete testimony, however, is that in the course of the November interview he said, at page 703 - 2, "He then said, 'The government is very nervous about that one.'"

"And then he said, 'Someone close to the Premier's office has called me and asked me to keep quiet about it.'"

Now did you tell Mr. Manthorpe that in ~~the~~ November ~~interview~~ interview? - I am sorry, not the November interview, when you called him anonymously in November of 1972?

Mr. Smith: I don't recall saying that to him.

Mr. Shibley: Well, again, he has testified that you did. Are you prepared to deny that you said it?

Mr. Smith: I am prepared to deny that.

H 776 - 1 follows

June 21, 1973

3.20-3.25p.m.

B.A.

H-776-1

(Mr. Shibley)

~~Mr. Smith: I am prepared to say that I have been~~
~~advised not to speak out or I could hurt my business, I am prepared~~
to say that.

Mr. Shibley: Mr. Smith, you see, in the first time around your explanation, you said, "Well, I couldn't have told him that because I didn't talk to Cronyn until December 15th, which was later in point of time to my conversations with Manthorpe". Now, we have produced before this committee your letter to Mr. Cronyn of July 14, 1972.

Mr. Smith: Yes.

Mr. Shibley: And as part of that letter you referenced a discussion with Joe Manthorpe that you might jeopardize ^{his} dealings with the government if you stirred ~~up~~ anything up on this job.

Mr. Smith: YEs.

Mr. Shibley: And what I want to know is whether you had a communication from Mr. Cronyn subsequent in point of time to your letter of July 14, 1972, and before your telephone to Mr. Manthorpe in the latter part of November.

Mr. Smith: The answer is no.

Mr. Brownlie: ~~He~~ I am counting, Mr. Chairman, that is the third time.

Mr. Bullbrook: That's fine, it might be the thirty-third time, as far as this member of the committee is concerned. I want you to know that, Mr. Chairman, and I don't consider that badgering the witness at all. I consider that the inherent obligation of the counsel of this committee, to get at the truth, and if it takes him thirty-three times to get at the truth, he will decide when he doesn't want ~~them~~ to question them any further, and I'll support the rights of this witness and I want his counsel to know without reservation.

Are you finished?

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3.20-3.25 p.m.
P.A.

Mr. Shibley: I'm not finished.

Mr. Bullbrook: No. Well, I want to say to you without unduly, again, diverting your line of questioning, if we are at the stage now that this is Mr. Barnicke we are talking about, then I would like to see some examination on the question of the words "government official." I am sorry, "close to the Premier",

I don't have that quote in front of me, is it "close to the Premier's office"?

Mr. Wm. Hodgson: "Close to the Premier's office".

Mr. Chairman: You are referring to the newspaper article, are you?

Mr. Bullbrook: No, I am talking about Mr. Manthorpe's evidence.

Mr. Shibley: No, Mr. Manthorpe's evidence, at page 703-2, two-thirds of the way down the page:

"He then said the government is very nervous about that one, and then he said, 'Someone close to the Premier's office has called me and asked me to keep quiet about it'. Now then, was it any part of your conversation with Mr. Manthorpe that you said, 'Someone close to the Premier's office ' had called you'?"

Mr. Smith: I don't recall saying someone close to the Premier's office.

Mr. Shibley: What do you recall saying to Mr. Manthorpe?

Mr. Smith: Well, I thought I first said that I told him I thought he was on the right track on Hydro, and then I find out that it was on the Workmen's Compensation, so I think, at least, I obviously meant that I thought he was on the right track on the investigations, and I talked to him about Hydro, and I thought he should check into that one.

Again, in the back of my mind would be the fact that

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3.20-3.25p.m.

B.A.

(Mr. Smith)

whether I was taking a risk by saying ^{something} that would jeopardize our business, so I could have told ^{HIM} ~~them~~ that I had been advised not to say anything or I could jeopardize my business. Now, "close to the Premier's office" does not ring a bell with me at all.

Mr. Shibley: If you said that to him, who would it refer to in terms of the people that had been in communication with you?

~~Mr. Smith said: I was talking to him that day.~~

(Tape H-777 follows)

June 27/73
3.25 to 3.30 pm
DT

Mr. Smith: Well, it was Barnicke I had in mind because that was where the idea came in my mind. ~~It~~ It was in my mind on my own instigation also that I would jeopardize my ~~my~~ business, ~~but~~ it was Barnicke that I had in mind at that time.

Mr. Shibley: Was Mr. Cronyn in communication with you in December of 1972?

Mr. Smith: Yes, ^{when} he called me that evening.

Mr. Shibley: And what evening was it?

Mr. Smith: I don't know what evening it was. I told you back at the beginning I thought it was in January and I obviously told McAuliffe ~~he~~ he said I said a few weeks ago. ~~January would have been~~ If somebody had said "When did he call you?" I would have said "January." I just didn't look it up and I didn't make a note of it and I didn't write it down.

Mr. Shibley: All right. Mr. Smith --

Mr. Smith: If he says December 12, I am willing to go along with that date.

Mr. Shibley: All right. ~~But~~ You know that Mr. Manthorpe testified that ~~that~~ he called ~~Mr.~~ Mr. Fleck, on the same day that he met with Mr. Candy and he pegged the day as December 12 although Mr. Candy, I believe, pegged it as December 15?

Mr. Smith: Yes.

Mr. Shibley: But Mr. Manthorpe said that when he spoke to Fleck, Fleck told Manthorpe that he knew that Ellis-Don was unhappy. Remember that ~~last~~ testimony?

Mr. Smith: Yes, I remember that.

Mr. Shibley: And do you know or have any information as to what was the source of Mr. Fleck's information that your firm was unhappy about the Hydro contract?

Mr. Smith: Do I know? No, I don't ~~know~~.

Mr. Shibley: You have no information as to that?

Mr. Smith: No.

Mr. Shibley: You don't know who told Mr. Fleck about this?

Mr. Smith: No, I don't, except from -- No, I don't unless it is in testimony. Mr. Fleck's name is not a name I know.

Mr. Genest: Mr. Shibley, just for my own purpose, do you have a page reference to that piece of evidence?

Mr. Shibley: Yes, I do. It is in Mr. Manthorpe's evidence. I will give it to you immediately. There is a lead-up line of questioning at Page 711-1.

Mr. Genest: Thank you.

Mr. Shibley:

"Mr. Manthorpe: He said, [referring to Mr. Fleck], well, I can't be precise about the words he used and the lead-up to it but he said, I know Ellis-Don is unhappy."

"Mr. Shibley: Yes. I know that Ellis-Don is unhappy."

"Mr. Manthorpe: Yes."

"Mr. Shibley: Now did he indicate to you the manner by which he was aware that Ellis-Don was unhappy?"

"Mr. Manthorpe: No, he didn't and I knew better than to ask him."

Mr. Manthorpe said that interview took place on December 12, and you have no knowledge or information, Mr. Smith, as to how that information came to the attention of Mr. Fleck?

Mr. Smith: No.

Mr. Shibley: You never discussed it with Mr. Cronyn that he might have communicated this to Mr. Fleck?

Mr. Smith: Never discussed that I was unhappy?

Mr. Shibley: No, no. Mr. Cronyn never mentioned prior to December 12 having communicated your unhappiness to Mr. Fleck?

Mr. Smith: No, not to me. I don't recall that anyway.

~~Mr. Shibley: Mr. Smith~~

(778 to follow)

June 27, 1973
3:30-3:45 p.m.
M.F.

H - 77M - 1

~~Mr. Shibley: Mr. Smith:~~
Mr. Shibley: Mr. Smith:

Mr. Smith: Could not Mr. Cronyn's phone call be pinpointed as to the day it was supposed to come in the House, could you not tie it in that way?

Mr. Shibley: Well Mr. Manthorpe pinpointed it by saying it was two days before the answers were tabled ^{IN THE HOUSE} and he says very precisely it was December 12th.

Now I want to return to your letter of July 14, 1972, which was exhibit 175; am I correct in my recollection of your evidence - and I might say some people are not quite sure what your evidence was so I would ask counsel's acquiescence in my going over this a second time; am I correct in my understanding that you had reviewed this letter before the sittings of this committee had commenced?

Mr. Smith: That I had reviewed this letter?

Mr. Shibley: Yes.

Mr. Smith: Yes, I think I said I reviewed this letter.

Mr. Shibley: Before the sittings of this committee had commenced?

Mr. Smith: I knew of the existence of the letter, yes.

Mr. Shibley: I would like your explanation as to why you concluded that the letter was not relevant to the issues before this committee.

Mr. Smith: Because I thought that everything in it had been mentioned or had come up previously that was in evidence or in ---- I didn't think there was anything in it that would add. I looked at it and said I don't think this is anything that we haven't shown elsewhere.

Mr. Shibley: But did you not think it important for this committee to know the manner in which you had arranged the meeting with Mr. Gathercole?

Mr. Smith: No, I did not.

H - 778 - 2

Mr. Shibley: Did you not think it important for this committee to know that you were, even as of July 14th, which was prior to July 19 when the commission approved of the contract with Canada Square by five days, you were registering specific complaints and cautions with Mr. Cronyn?

Mr. Bullbrook: Well the evidence really, Mr. Shibley, is that he has been consistent in his testimony, that this letter was a letter of advice, not of caution or complaint.

At least that is what I understood his evidence to be.

Mr. Shibley: You have no further explanation to make as to the procedure that produced that letter?

Mr. Smith: I don't see anything in the letter that would not have come out in testimony except for the very last paragraph about Mr. Barniske, and that is the only thing I see that is new to the testimony.

Mr. Shibley: Now then, Mr. Smith, you talked to Cronyn in December. Did you talk to him again about the issues before this committee subsequent to December, 1972?

Mr. Smith: I am sorry?

Mr. Shibley: Did you speak to Cronyn again after the December discussion with him?

Mr. Smith: I am sure I did.

Mr. Shibley: On more than one occasion?

Tape H - 779 follows

June 27/73
3:35 - 3:40 pm.
M.S.

(~~Mr. Shibley~~)

~~did you?~~

~~Mr. Smith: I'm sure I did.~~

~~Mr. Shibley: On more than one occasion?~~

Mr. Smith: Quite probably.

Mr. Shibley: When was the first occasion after
December ¹⁵/of 1972 that you spoke to him?

Mr. Smith: I don't have an exact date. I talked
to him one day at a London Life board meeting.

Mr. Shibley: About the Hydro building?

Mr. Smith: Yes.

Mr. Shibley: When was that?

Mr. Smith: I don't know the date. It was just
one of the monthly meetings.

Mr. Shibley: I see. And what was said at that
time?

Mr. Smith: That he understood that Mr. Moog
had the best proposal on the Hydro building.

Mr. Shibley: Anything else said?

Mr. Smith: ~~Not~~ No, it was just as we were
walking out at the very end of the meeting. Didn't even walk
down the hall. He just mentioned it as I went by him.

Mr. Shibley: He has mentioned a discussion at
the cottage in June of 1973.

Mr. Smith: Oh, yes, yes.

Mr. Shibley: This would be subsequent to the
article of April 30 in the Globe?

Mr. Smith: Oh, yes, yes.

Mr. Shibley: Will you give us your version of
what was said on that occasion?

Mr. Smith: I think he just walked by me and
said that he had seen the figures on the Hydro building and that
Mr. Moog had put in the best proposal.

June 27/73
3:35 - 3:40 pm.
M.S.

Mr. Shibley: Who showed him the figures on the Hydro ~~build~~ building?

Mr. Smith: I have no idea. That was all that was said at the meeting. X He said that Moog had the best proposal. Now, whether he said ^{he saw} the figures, but he said Moog had the best deal on the Hydro building.

Mr. Shibley: Did he say that on the ---

Mr. Smith: Now, whether he said he saw it or somebody told him, I don't recall that.

Mr. Shibley: From what he said, do you know whether he had an opportunity to make a comparison of ~~my~~ your submission?

Mr. Smith: No, I didn't. I did not go into that with him at that time. He didn't mention any ~~part~~ details of it.

Mr. Shibley: Was it implicit from what he said, that he had followed through to check on whether Canada Square did submit the best proposal?

Mr. Smith: All he said is what I've told you. That he'd heard that Mr. Moog had put in the best proposal on the Hydro building.

Mr. Bullbrook: Would you bear with me as to the occasion of this? I thought your line of questioning now was away from the London Life meeting and back to the cottage in June.

Mr. Shibley: That's right.

Mr. Bullbrook: Did you understand that, Mr. Smith?

Mr. Smith: No, I didn't, Mr. Bullbrook.

Mr. Bullbrook: I thought that was

Mr. Shibley: I'm talking about your conversation in June of this year. This month that we're in right now.

Mr. Smith: Well, I was back to the London Life. I'm sorry.

June 27/73
3:35 - 3:40 pm.
M.S.

Mr. Shibley: I'm sorry. Two or three weeks ago you discussed this matter with Mr. Cronyn at the cottage?

Mr. Smith: Yes.

Mr. Shibley: What did he have to say to you then?

Mr. Smith: Exactly what I've told you. Exactly what I've told you in preceding testimony.

Mr. Shibley: Well, will you refresh our memory, please?

Mr. Smith: No, I think you had better read the testimony because I might say "were" or "won't" in the wrong place.

Mr. Shibley: You didn't receive any cautions at that time?

Mr. Smith: In June of this year?

Mr. Shibley: Yes.

Mr. Smith: No.

Mr. Shibley: All right. I have no further questions.

Mr. Chairman: ~~Any~~ Any other member of the committee have any further questions of Mr. Smith?

Mr. Bullbrook: I want to clarify one or two things, if I may. And I recognize, frankly, Mr. Chairman, to both the witness and counsel, that there is some repetition here. But the purpose of the questioning is to clarify in my mind.

June 27, 1973
3.40 - 3.45 p.m.
M.R.(Mr. Bullbrook)

~~counsel that there is some repetition here but~~ the purpose of the questioning is to clarify in my mind any continuing conflict or divergence in testimony, ~~and~~ ^{it} refers entirely to the line of questioning Mr. Shibley undertook with respect to Mr. Manthorpe's testimony. Because as I receive and understand at this time, the conflict that existed previously, Mr. Smith, between your testimony and Mr. McAuliffe's testimony, has to a great extent been resolved by the refreshing of your memory, and the production of an additional exhibit, but now, as I understand your evidence, because of the time sequence, it could not have been Mr. Cronyn to whom anybody was referring during the course of your discussion with Mr. Manthorpe?

Mr. Smith: That is true.

Mr. Bullbrook: It ~~can~~ couldn't have been. I don't want to attempt to in any way ~~ensnare~~ ensnare you. This isn't my purpose. Because we have the unequivocal evidence of Mr. Manthorpe, now, that he says and I read from H703-3.

"Mr. Shibley: Now I'd like you to be very precise, as precise as possible, about the exact words used to you in speaking to you when he said 'Someone close to the Premier's office has called me and asked me to keep quiet about this*.' Are you paraphrasing when you use those terms?

"Mr. Manthorpe: No, I remember distinctly he had said 'Someone from the Premier's office.' Now whether he said to keep quiet about it or keep my mouth shut, I ~~can~~ couldn't be absolutely certain about, but I think he used the first term that I mentioned."

Now, we therefore have the evidence of Mr. Manthorpe that during the course of that telephone conversation, the caller, now agreed, ~~to~~ by you, to be you,

Mr. Smith: Right.

Mr. Bullbrook: ~~the~~ the caller, according to Mr. Manthorpe

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3.40 - 3.45 p.m.
M.R.

(Mr. Bullbrook)

said that he had been advised by someone close to the Premier's office. Now, I want to understand your evidence. Is your evidence that you cannot deny that on the occasion of that call you said those words or some similar words?

Mr. Smith: No. I said I cannot deny.

Mr. Bullbrook: You cannot deny?

Mr. Smith: I believe I said that.

Mr. Bullbrook: That was essential for me to

understand. There are other things, Mr. Chairman, I'd like to go into. They would be reiterative in their nature and because of the lengthy examination, I'm not going to go further.

Mr. Chairman: Mr. Hodgson.

Mr. R.G. Hodgson: I just wanted to ask the

witness one question with regard to the letter to Mr. Cronyn on the 14th and it's the last line in the first paragraph.

The paragraph is really a comment on your meeting with Mr. Gathercole, as I understand that. Did you discuss with him the possibility ~~was~~ Y and R Properties would manage this for you?

Mr. Smith: Did I ~~discuss~~ discuss with Mr. Gathercole?

Mr. R.G. Hodgson: Yes.

Mr. Smith: No, I don't think I did.

I don't think it came up at all.

Mr. R.G. Hodgson: I haven't seen anything in

any previous notes to that effect.

~~22~~ Mr. Smith: No.

Mr. Chairman: Mr. William Hodgson.

Mr. W. Hodgson: Just one quick question, Mr. Chairman.

Did you ever have a call from anyone close to the Premier's office at any time on this Hydro building?

Mr. Smith: That's like - what's close to the

Premier's office?

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M.R.

Mr. W. Hodgson: All you have to do is say yes or no. I'm not asking for an explanation. Did you have a call from anyone close to the Premier's office?

Mr. Smith: The only call I had was from Mr. Cronyn that I told you about.

Mr. W. Hodgson: And you consider him close, then?

Mr. Smith: I didn't say I said close to the Premier's office.

Mr. W. Hodgson: Okay.

Mr. Smith: It's semantics, I guess.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Mr. Chairman, I'm not going to go into it to try to resolve the substance ^{of} ~~of the letter~~ of the conflicts that have appeared but there is still some information ~~...~~

Mr. Chairman: I wonder if you would use the microphone, Mr. Renwick?

Mr. Renwick: Mr. Smith, the matters of chronology become so very important I know you will bear with me if they appear to be irrelevant.

~~In the letter of July 14th to Mr.~~



H-781 to follow

H-781-1

(Mr. Renwick)

~~important. I know you'll bear with me if they appear to be~~
~~irrelevant.~~ In the letter of July 14 to Mr. Cronyn dealing with
the last paragraph, you say; "I talked to Joe Barnicke last
week". Can you give us any idea of whether the conversation with
Joe Barnicke preceded or came after your call to Ernie Jackson,
or your talk with Ernie Jackson?

Mr. Smith: Mr. Renwick, anything I would say would be
hearsay. I can't pinpoint the date.

Mr. Renwick: Yes, you can't tell whether you called
Barnicke before Jackson or after you talked with Jackson?

Mr. Smith: I could only give you an opinion. I couldn't
give you a definite statement.

Mr. Renwick: Well I would like your opinion because you
are the one who had the two conversations.

Mr. Smith: I would think I probably called him after. I
would think I probably called Barnicke after.

Mr. Renwick: After talking with Jackson, but before
seeing Mr. Gathercole, or after seeing Mr. Gathercole?

Mr. Smith: I just don't have a recollection of what.

Mr. Renwick: Would you try between now and the next time
that we discuss these matters to see if you could sort out the
order in which those conversations took place; that is the Barnicke
one in relation to the call or talk with Jackson, and the meeting
with Gathercole?

Mr. Brownlie: That's an indication, Mr. Renwick, that
we are going ~~be~~ to be back here tomorrow?

Mr. Renwick: I wasn't thinking necessarily tomorrow
because the longer interval ^{was} is most helpful to the whole committee.

Mr. Genest: I think the evidence shows, Mr. Renwick, that
the appointment with Mr. Gathercole, marked in Mr. Gathercole's
diary, was July 13, one day before the date of this letter.

Mr. Renwick: One day, on July 13.

Mr. Genest: On July 13, when ~~the call to Barnicke~~ ^{was} Wednesday of
"last week."

H-781-2

Mr. Brownlie: No, no, the letter ~~was~~

Mr. Renwick: So then the call with Barnicke would

precede the meeting with Mr. Gathercole?

Mr. Genest: Yes.

Mr. Renwick: Right. Now would you perhaps tell the committee, Mr. Smith, your recollection to the best of your knowledge of your conversation with Mr. Jackson? Was it by telephone or in person, and what transpired at that meeting, and why did you call him?

Mr. Smith: As I said I was still ~~there~~ I had not known of any decision about the Hydro job although I had heard, you know, there had been rumours.

Mr. Renwick: Where did you talk to him?

Mr. Smith: I talked to him in his office in the Toronto-Dominion Bank, and I asked him if he could arrange for a meeting with Mr. Gathercole so I could present my side of the case.

Mr. Renwick: So you went to Mr. Jackson's office.

Mr. Smith: I had known Mr. Jackson for over 25 years ~~and~~

Renwick:
Mr. ~~Renwick~~ I understand, yes.

Mr. Smith: Yes, I went to his office.

Mr. Renwick: To his office?

Mr. Smith: Yes.

Mr. Renwick: Here in Toronto?

Mr. Smith: Yes.

Mr. Renwick: For the express purpose of talking about the Hydro job?

Mr. Smith: For the express purpose of seeing if he would make an appointment with Mr. Gathercole. That was the only reason for going.

Mr. Renwick: Perhaps, Mr. Shibley, if you wouldn't mind taking on and asking Mr. Smith some questions with respect to his meeting with Mr. Jackson about the Hydro job on whatever date it was.

Mr. Shibley: I'm sorry, Mr. Renwick, I was discussing something else with the chairman, but if I may be repetitive in terms of some of your questions, but ~~and~~

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CA

H-781-3

Mr. Renwick: It was just, Mr. Chairman, if I may just assist Mr. Shibley, Mr. Smith said that he met with Mr. Jackson in his office here in Toronto, which is the reference in the first part of the letter, and I would like to know the substance of that discussion which took place at that time.

Mr. Shibley: All right. Then Mr. Smith, first of all, have we pinpointed the date of the meeting that you had with Mr. Jackson? It being July 13?

Mr. Smith: No, that was the meeting with Mr. Gathercole, I gather.

Mr. Shibley: I see. And you met with Jackson at some time prior to that time?

Mr. Smith: Yes, I did.

Mr. Shibley: All right. Would it be within a matter of days?

~~H-782-1 follows~~

June 27/873
3.50 to 3.55 pm
fvk

~~Mr. Shibley:~~

You pinpointed the date of the meeting as sometime prior to that time?

Mr. Smith: Yes, I did.

Mr. Shibley: Would it be within a ~~week~~ matter of days?

Mr. Smith: My best recollection would be a week.

Mr. Shibley: A week?

Mr. Smith: Five days to a week before.

Mr. Shibley: And having gone to see him at his office, would this be by prior appointment?

Mr. Smith: Mr. Jackson?

Mr. Shibley: Yes.

Mr. Smith: I would say so, although I don't recall. I don't really. ^{if} he's in I don't really require ~~any~~ I might have phoned him from London and said I was coming down to see him.

Mr. Shibley: All right. And when you arrived and commenced discussing the Hydro job, as your letter indicates, did he appear informed?

Mr. Smith: No. He did not appear informed.

Mr. Shibley: He knew nothing at all respecting the contract for the Hydro head office building?

Mr. Smith: I don't think I discussed it with him, Mr. Shibley. I just asked him if he would make an appointment. I think I discussed it with ~~the~~ senior people in our office, our former secretary-treasurer. I'm ~~just trying to~~ as I say, pardon ~~me~~ the repetition, I'm just grasping at straws or trying to figure out anything I can do to ~~me~~.

Mr. Shibley: At the moment, Mr. Smith, what we're really interested in knowing ^{is} what was the exchange between you and Jackson on this occasion?

Mr. Smith: Oh, the exchange was only, to my recollection, a 10 or 15-minute meeting in his office.

Mr. Shibley: Did you tell him, in substance, what is the content of ~~the~~ this letter as to your views about the Hydro project?

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3.50 to 3.55 pm
fvk

Mr. Smith: ^{No₂} I don't believe I went into it with Ernie at all.

Mr. Shibley: Did you not tell him why you wanted a meeting with Gathercole?

Mr. Smith: Oh, certainly.

Mr. Shibley: What did you tell him?

Mr. Smith: To explain my side of the Hydro deal.

Mr. Shibley: Did you tell him that you didn't consider you were getting a fair shake?

Mr. Smith: I could have. I don't know, really.

Mr. Shibley: Did you give him any information as to the circumstances surrounding the —

Mr. Smith: I think I probably went in and said, "I'm still working, trying to straighten out the Hydro thing and I wonder, Ernie, if you could make an appointment with George Gathercole for me." Ernie was busy and he got on the phone and said, "You got your appointment. We'll see you."

Mr. Shibley: Did you not tell him of your suspicions respecting the circumstances ~~about~~ surrounding the awarding of the contract to Canada Square?

Mr. Smith: I don't recall telling him, Mr. Shibley.

Mr. Shibley: You might have?

Mr. Smith: The contract hadn't been awarded and I don't recall getting into it with him. I certainly didn't get into any detail with him.

Mr. Shibley: And from his side of the discussion, was he able to make any ~~part~~ contribution in terms of information provided to you?

Mr. Smith: No, he was not.

Mr. Shibley: This seemed all new to him?

Mr. Smith: It just wasn't discussed so I don't know if it was new to him or old to him really. Ernie's not a person that I would discuss the contract with, at length, at all.

Mr. Shibley: I gather you went to see him, not just to set up an appointment with Gathercole. You could have called Gathercole yourself, could you not?

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fvk

Mr. Smith: No, I expressly went to see him to ask him if he'd arrange a meeting for me with Mr. Gathercole.

Mr. Shibley: Why did you use Ernie Jackson as a vehicle for arranging the meeting with Gathercole?

Mr. Smith: Because Ernie is a close friend of mine and he knew Mr. Gathercole.

Mr. Shibley: I see.

Mr. Smith: I've done that sort of thing. You do it all the time, really.

Mr. Shibley: And here again did you ~~again~~ intend to communicate through Mr. Jackson to Mr. Gathercole certain of the views you were taking as to the circumstances surrounding the submissions?

Mr. Smith: Did I want Mr. Jackson to talk to Mr. Gathercole

Mr. Shibley: Yes.

Mr. Smith: No.

Mr. Shibley: Did you not want him to ~~to~~ tell ~~Gathercole~~ Gathercole ^{about} your suspicions in this respect?

Mr. Smith: No. I can carry it myself. At least I can present my own case.

Mr. Shibley: Are you telling us that when you met Mr. Gathercole that you, in fact, told him about your suspicions respecting the ~~xxxx~~ awarding of this contract?

~~Mr. Smith: I merely presented the positive side of Miss Don and not the~~

(Tape H-783 follows)

June 21, 1973
3.55-4.00p.m.
B.A.

H-783-1

~~(Mr. Shibley):~~

~~the awarding of this contract.~~

Mr. Smith : No, I merely presented the positive side of Ellis-Don and not the negative, and he told me ~~that~~ not to hold out too much hope.

Mr. Shibley: Going back to your discussion with Jackson, ^{did} ~~do~~ you not intend Jackson to tell Gathercole ~~anything~~?

Mr. Smith: No, I did not ask him to intercede at any time.

Mr. Shibley: You may not have asked him but did you intend him to tell Gathercole the things that were worrisome to you about the manner in which they were dealing with Canada Square?

Mr. Smith: No. I only asked him to ask Mr. Gathercole for a meeting, and that's what he did.

Mr. Shibley: And there was nothing else discussed, other than what you have told?

Mr. Smith: No, ~~as~~ there was nothing else.

Mr. Renwick: Mr. Chairman, I would just like to follow along very briefly on that and then move to another topic, very briefly, as well. Your last reply, Mr. Smith, isn't consistent with your opening sentence in your letter to Mr. Cronyn, which is, "I talked to Ernie Jackson about the Hydro job and he arranged a meeting with George Gathercole".

Mr. Brownlee: Why is it inconsistent?

Mr. Renwick: Mr. Smith, you stated that the sole and only matter that you discussed with Mr. Jackson about the Hydro job was to ask him to arrange a meeting with George Gathercole.

Mr. Smith: I can't recall saying anything else to him other than saying I would appreciate if he would -- I could have said, "Ernie, I am still trying to do something on Hydro, and I am not getting anywhere, and could you set up a meeting". That was ~~all~~.

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B.A.

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Mr. ~~W~~ Renwick: And you went to Mr. Jackson's office for the sole purpose of asking him to arrange a meeting with Mr. Gathercole?

Mr. Smith: That is right.

Mr. Renwick: Mr. Smith, did you ever -- have you had any other conversations with Ernie Jackson about the Hydro job?

Mr. Smith: Not that I can recall.

Mr. Renwick: He is also a neighbour of yours, is he?

Mr. Smith: Yes, he is. He has been a neighbour for 25 years; ~~and his wife~~ ^{lives} two doors away from me, ~~and his~~ ^{and his} children, and at the present time ~~and~~.

Mr. Renwick: Then I am going to repeat my question to you. You had this one meeting with Ernie Jackson in his office and the only matter that you raised with him was to ask Jackson to telephone Gathercole and make an appointment for you? ~~and my~~ ~~question to~~ you is, at that meeting, or at any other occasion, have you had any discussion, conversation, or other communication with Mr. Jackson, about the Hydro job?

Mr. Smith: Not that I can recall, and I see Mr. Shibley laughing. I didn't say Mr. Jackson lived next door to me. Mr. Jackson lives in Toronto; I said Mr. Jackson's wife lives next door ~~and~~ to me. ~~I~~ I have not had connections with ~~any~~.

Mr. Renwick: Where is Mr. Jackson's cottage?

Mr. Smith: I don't think Mr. Jackson has a cottage. His wife has a cottage.

Mr. Shibley: Mr. Smith, you should learn to stop midway in certain of your answers.

Mr. Smith: I do that, I 'm sorry. I meant that I hadn't seen Mr. Jackson in London.

Mr. Renwick: But you wish to leave with me the impression that you may possibly have had other ~~conversations~~ conversations?

Mr. Smith: No, I do not wish to leave that impression with you at all.

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Mr. Renwick: Well, what impression do you want to leave with us?

Mr. Smith: That I met Mr. Jackson once and I asked him if he would call Mr. Gathercole. That is the impression that I intend to leave, and that is all that I can recall.

Mr. Renwick: And that is all that you have ever had to deal with Mr. Jackson about, the Hydro job?

Mr. Smith: Yes.

Mr. Renwick: So it is not a matter of recollection, now? You are telling me that the only conversation you had with Jackson was in his office to ask him to arrange this meeting with Gathercole?

~~Mr. Smith: Yes, that is right.~~

~~Mr. Deane: (Inaudible)~~

~~Mr. Renwick: So, I didn't have to ask him that.~~

~~Mr. Smith: I am in town, Mr. Deane, I am in town three days a week.~~

(Tape H-784 follows)

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4 - 4:05 pm

C..B.

~~(Mr. Smith)~~~~meeting~~Mr. Smith: That is right.Mr. Deans: ~~(Mr. Smith)~~ *Ask him why did he not ask the questions over the phone*Mr. Renwick: No, I don't want to ask him that.Mr. Smith: I'm in town, Mr. Deans; I'm in town three days a week.Mr. Deans: It is odd that you would go in to ask for it.Mr. Renwick: Let me turn to another matter which is of concern to me; ^{it} is this question of the time when you became aware of the friendship between Mr. Moog and Mr. Davis, and in your mind had the impression that it may have had some influence on the direction in which the Hydro job was going. Now, we are now at the point where it is quite clear from the letter of July 14 to Mr. Cronyn, exhibit 175, that your knowledge preceeded July 14.

Under close questioning again by Mr. Shibley, about this time when you became aware of this friendship between Mr. Davis and Mr. Moog, you have said that it was May of 1972. But at no time have you indicated what circumstance or peg you have in mind that permits you to fix upon the month of May as the time. Can you help me to pinpoint more accurately by some reference the question of when you became aware of the relationship between Mr. Moog and Mr. ~~Mr.~~ Davis?

Mr. Brownlie: Mr. Chairman I do want to intervene at this time, with respect, and point out at

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4 - 4:05 pm

C.B.

(Mr. ~~Mr.~~ Brownie)

the seventh, at my count, ~~the~~ time that that particular question was put to my client this morning, we went and read at length the answers that were given in the transcript, and if Mr. Renwick is now suggesting that my ~~client's~~ client has now tied down May as the time when he found out ~~about~~ the connection between Mr. Moog and the Premier as to friendship, or alternatively if he is saying that the letter of July 14 contains that, I with respect disagree.

I don't think either the letter says that, nor do I think he said that in testimony, and I wish that would be cleared up before the witness is asked to answer.

Mr. Chairman: Mr. Renwick, any comment on that?

Mr. Renwick: Yes, I would like to then go back a little bit. Mr. Smith, in response to questions which Mr. Shibley referred to this ~~morning~~ morning, and which I asked when you last gave evidence last week about this matter, you did give evidence that your knowledge of the friendship between Mr. Moog and Mr. Davis preceded your letter to Mr. Seguin in August of 1972. Do you recall that?

Mr. Smith: Yes, I recall that.

Mr. Renwick: Yes. And at that time you indicated that to the best of your recollection it was in May of 1972.

Mr. Smith: That's right.

Mr. Renwick: Now, could I just confirm then, that the inference which I drew from the words in brackets in the letter of July 14 to Mr. John Cronyn, "who was obviously Moog)", means that at July 14 or on July 13, when you met with Mr. Gathercole, you were at that point aware of the ~~fact~~ friendship between Mr. Moog and Mr. Davis and that it might be of influence on the direction in which the contract was going?

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4 - 4:05 pm

C.B.

Mr. Smith: I can't get back to pinpoint - I'm really trying to think on that - I'm sorry I really can't enlighten you on that.

Mr. Renwick: You, at this point Mr. Smith, cannot help in any way to indicate when you became aware of the friendship between Mr. Moog and Mr. Davis, from the period from February of 1972 to July 1972?

Mr. Smith: I can't pinpoint a time. I'm sorry, and we talked out in the room outside, and I just was trying to pin down an incident and I said I just couldn't do it. So I have been trying since this morning to try to think of an instance when I did hear it.

Mr. Renwick: Did you know at July 14, of the reported friendship between Mr. Moog and Mr. Davis?

~~Mr. Smith: I cannot think of a date.~~

H 785 to follow

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4.05 to 4.10 pm
DT

Mr. Smith: I would think I did. It certainly seems obvious that I did.

Mr. Renwick: And ~~any knowledge of any~~ referring to your previous evidence when you seemed to indicate to me that it was in May of 1972, ^{in May} is there any circumstance ~~that~~ that you are aware of?

Mr. Smith: No, I can't think of one. I can't think of one.

Mr. Renwick: I think that's all for now, Mr. Chairman.

Mr. Bullbrook: Yes, I just want to ask one question. ~~As to your~~ ^{As to your} knowledge of Mr. Barnicke's political connection, could you amplify on your response this morning? Could you just tell me what your knowledge is, if any? I am sorry, Mr. Chairman, if any.

Mr. Smith: I don't know precisely what Mr. Barnicke's -- I know Mr. Barnicke is a Conservative. I know he is a close friend of Ernie Jackson. I don't know any more than that.

Mr. W. Hodgson: Do you know if Mr. Barnicke holds any executive position in the Conservative party, in the Ontario Conservative party?

Mr. Smith: No, I don't.

Mr. Chairman: I am sorry. You are not through yet, Mr. Bullbrook?

Mr. Smith: No, I don't know that at all.

Mr. Bullbrook: No I don't mind. Mr. Hodgson doesn't ask many questions so ~~that's~~ if he wants to go ahead.

Mr. Chairman: It is Mr. Gaunt I am worrying about now.

Mr. Bullbrook: Oh, I am sorry. I don't want to hold up Mr. Gaunt. Do you know if Mr. Barnicke, of your own knowledge in the construction industry or the real estate industry, ^{has} had any ~~involvement~~ involvement contractually or otherwise ^{with} the government of Ontario or any ^{of its emanations?} ~~other organizations~~

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DT

Mr. Smith: Not specifically, no.

Mr. Bullbrook: You don't have any knowledge of that?

Mr. Smith: No, I don't.

Mr. Chairman: Mr. Gaunt.

Mr. Gaunt: Mr. Chairman, I was just wondering, may I ask counsel if he has any intention later on of clearing up the matter of Barnicke^{and} for whom he works or with which firm he is connected?

Mr. Shibley: This hearing is making me feel like the sorcerer's apprentice, and I have determined never again to undertake to call anybody as an additional witness. What I would like to do is reserve decision on what further evidence is required vis-à-vis any issue until we see what we have got out of evidence already arranged for. I really wonder how important that is. I am concerned frankly that we not drag the thing out unnecessarily. I feel we have taken a lot of time today on an issue of importance, more than might be in it. I do intend to call Mrs. Shuttleworth, Mr. Grant, recall Mr. Cronyn and then return to Mr. McAuliffe.

Mr. Bullbrook: May I ask you on that, through the chair, you intend to call Mrs. ~~Shuttleworth~~ ^{that} Shuttleworth. ~~that~~ I have no direct objection to ~~this~~ but I really feel that the corroborative aspect of her evidence -- do you feel it essential that we have her evidence? As I understand the evidence of Mr. Smith now, ~~that~~ he is not taking issue with Mr. McAuliffe's comments.

Mr. Shibley: If the other members of this committee are prepared to ~~unanimously agree with you in that respect~~

~~Mr. Bullbrook: I can unanimously agree with you in that respect.~~

Mr. Allan: Mr. Chairman, I think to round out ~~the~~ your basis of information that you should call Mrs. Shuttleworth.

Mr. Shibley: I see.

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DT

Mr. Bullbrook: That's fine.

Chairman: ~~If I could comment before~~

Mr. ~~Bullbrook~~ ~~Mr. Gaunt~~, I find ~~him~~

this inquiry ~~is~~ is like a chain letter; one witness mentions three other ~~witnesses~~ witnesses or three other possible witnesses and then you feel that ~~and~~ maybe you should call those three and they, in turn, each name three more, so it has become a tremendous task. Now, some of us know who J. J. Barnicke is, I know.

~~Mr. Bullbrook: Some of us honestly don't.~~

~~I honestly don't. I thought he was.~~

(H786 to follow)

June 27th, 1973

4.10 - 4.15 pm

H 786 - 1

AA

~~(Mr. Bullbrook)~~

Mr. Bullbrook: Some of us honestly don't. I honestly don't. I thought he was from London. I really did.

Mr. W. Hodgson: Well, we know he is not an executive of the Conservative party, anyway.

Mr. Bullbrook: Then I ^{recalled} ~~was~~ seeing his name as a rental ^{agent} on a building.

Mr. Chairman: J. J. Barnicke is a real estate man here, operating in the City of Toronto.

Mr. ^{Ranwick} ~~Barnicke~~: Mr. Chairman, you are ahead of some of us.

Mr. Bullbrook: Yes. Could you help us in that respect?

Mr. Walker: There is no question, Mr. Chairman, that you should call Mrs. Shuttleworth. I think some of the NDP members have been saying that we should have females on many of our commission meetings.

Mr. Bullbrook: Good.

Mr. Shibley: ~~And~~ Besides, she worked in your campaign!

Mr. Walker: You are darn right. I have insisted that all our people down there have the opportunity to at least ^{be} ~~be~~ able to appear before us. A fair hearing is all we want.

Mr. Shibley: I have one closing question to put to Mr. Smith and that is -- and I don't want any inference taken from the question -- can we take it now that you have, in fact, produced the ~~the~~ whole of the documentation in the ~~the~~ possession of Ellis-Don Ltd., or any officer or ~~and~~ employee of Ellis-Don Ltd?

Mr. Smith: Anything we haven't produced, we told you we hadn't. The financial information we offered to you and you ~~hadn't asked~~ haven't asked ~~for it~~ for it yet.

Mr. Shibley: You are talking about the computer takeoffs? Other than that?

Mr. Smith: Yes. ~~Every~~ Everything ^{else} you have got - you

June 27th, 1973

4.10 - 4.15 pm

H 786 - 2

AA

(Mr. Smith)

have got everything else.

Mr. Chairman: Mr. Gaunt, you indicated you weren't through.

Mr. Gaunt: Well, I had two or three other questions which, with your permission, I would like to ask Mr. Smith. Had you ever met Mr. Gathercole prior to the July 13th meeting?

Mr. Smith: No, I had never met him.

Mr. Gaunt: And you ~~never~~ ^{Red} never had any direct contact with him ^{in any way?}

Mr. Smith: No, ~~yes~~ I sat on a platform with him one time, but I didn't meet him.

Mr. Gaunt: So that really was your reason for going to Ernie Jackson? You knew that Mr. Jackson knew Mr. Gathercole ~~and~~

Mr. Smith: That's right.

Mr. Gaunt: ~~Yes~~ and that he would lead you to his doorstep?

Mr. Smith: That's right.

Mr. Chairman: Mr. Smith, the chairman has one question. I am referring to tape H 759 - 2 of this morning's testimony, and reading in part one of your ~~answers~~ answers, I quote, "I hate working ^{hard} ~~on a contract~~ and loving them. I am a very aggressive contractor. I was still trying to figure out some way I could come up with this job. I knew my weakness was management. I knew this was why they - one of the reasons they had turned me down."

Now, you are saying management ~~was~~ was one of the reasons they turned you down. Do you know what any of the other reasons you have reference to were? You say one of the reasons; do you know of any other reason?

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4.10 - 4.15 pm

H 786 - 3

AA

~~(Mr. Smith)~~

Mr. Smith: I'm going to be a better contractor when I get finished ^{with} all this. I will be careful what I say. Management was one of our weaknesses ^{rather} than turned down, because we hadn't been turned down at that time, to my knowledge.

Mr. Chairman: You refer to one of the reasons they turned you down being your weakness in management. Now, I wondered what reference you may have had in the back of your mind to other reasons. Do you know of any other reason?

Mr. Smith: Do I know at what time? Now?

Mr. Chairman: Well ~~say~~,

Mr. Smith: Or at the time of that letter?

Mr. Chairman: What you seem to be referring to here - this is in the past tense - "I knew this was why they - one of the reasons they had turned me down."

Now you say "one of the reasons" - one of the reasons being ~~being~~

Mr. Walker: That's back in July, what you are referring to ^{is} ~~is~~ Mr. Chairman?

Mr. Chairman: Yes.

Mr. Walker: I think you are referring to back in July.

Mr. Chairman: As of July 14th; they tell me that that was the date referred to at that time.

Mr. Smith: I'm - you mean ~~at~~ ^{one} that time? I hadn't been turned down, ~~and~~ that was one of our weaknesses ^{One} of the reasons that did subsequently come out why we were turned down was our lack of management experience.

Mr. Chairman: And did you know of any other reasons that subsequently came out why they turned you down?

Mr. Smith: At this stage, I suspect there were other reasons.

Mr. Chairman: Do you know what those ~~was~~ ^{read} reasons were? ~~Do~~ Do you suspect?

Mr. Bullbrook: Here we go again.

H 787 - 1 follows

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4.15-4.20 p.m.
E.M.

H-787-1

(Mr. Chairman)

~~_____~~
~~_____~~ tabled
Mr. Smith: I guess they are all ~~people~~ in the
Legislature and you can take the ones out that apply to me.

Mr. Chairman: Any other questions?

Mr. Deans: I have one question. Did you ever deal
with Mr. Barnicke prior to this time?

Mr. Smith: ~~Yes~~ I certainly talked to Joe
previously but I had never done any business with him prior to
this time. I first met Joe Barnicke years and years ago; I
have known him a long, long time. I am not sure if ~~we~~ our firm
quoted him on a building, I seem to recall that we quoted him on
a building a few years back.

Mr. Deans: Was he someone whose advice you sought
from time to time?

Mr. Smith: I have known Joe for a long time; he is
very knowledgeable, yes.

Mr. Deans: Then you did seek his advice from time
to time?

Mr. Smith: No, not from time to time, I talked to
him the odd time but I ~~did~~ don't seek his advice from time to
time, no.

Mr. Deans: The reason I ask, to be quite frank with
you, is because you mentioned just a moment ago that you knew he
was a friend of Ernie Jackson's.

Mr. Smith: I knew Joe, too.

Mr. Deans: No, the reason I asked the question ^{was} it
seems odd that you would have in one letter spoken to two people
whom you refer to as being friends and people that you don't

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E.M.

H-787-2

(Mr. Deans)

normally deal with in the business. Why Joe Barnicke, when you indicated earlier that for management purposes you had ~~two~~ people

Mr. Smith: I knew Ernie Jackson all the time, he handles all my bonding and all my insurance.

Mr. Deans: Yes, I know, but you said that you had made arrangements for Sifton Properties. Are they related to Joe Barnicke?

Mr. Smith: They were the ones, Mr. Deans, I previously carried in our proposal.

Mr. Deans: Right. ^(On) Y₂ and R₂ Properties. ^(You) indicated that you had talked to them about managing the ~~XXXXX~~ proposal, too.

Mr. Smith: I hadn't talked to them in any detail.

Mr. Deans: Well, you said, "I have also talked to Y₂ and R₂ Properties and I am sure that they would manage it for us".

Mr. Smith: Yes. But I did not ask Y₂ and R₂ to do it; I know Mr. Rotenberg personally but I did not ask him, but I ~~was~~ felt sure that if I approached him that I might be able to work out something with him.

Mr. Deans: Why did you think it would be ~~beneficial~~ ~~beneficial~~ to have Mr. Barnicke involved in the project, having already had at least a sense that either Sifton or Y₂ and R₂ would be prepared to take on the management?

Mr. Smikh: The reason I didn't approach Y₂ and R₂ further is because they were competing on the project and I thought Sifton wrote himself out because he was so far away.

Mr. Deans: You didn't approach him and yet you did say to Mr. Cronyn in the "Dear John" letter that you had

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E.M.

H-787-3

(Mr. Deans)

also talked to Y, and R, Properties and "I am sure that they would manage it for us".

Mr. Smith: That was conjecture on my part. I

~~am~~ think I ~~can~~

Mr. Deans: You are not sure that they would?

Mr. Smith: No, I am not sure. You can be fairly sure, I felt if I talked to Mr. Rotenberg I could work something out.

Mr. Deans: Why would Mr. Barnicke tell you that he thought that pursuing it further would jeopardize your chance of government contracts? Why, in asking someone about assistance for management ~~and~~

Mr. Smith: I think anybody would tell you that. I don't think just Mr. Barnicke. I think any ~~one~~

Mr. Deans: You didn't ask Mr. Jackson whether he thought pursuing it further might in any way endanger your future contracts?

Mr. Smith: No.

Mr. Deans: I'll ask the question that Mr. Renwick wouldn't ask for me. Why would you bother coming in and going ^{had} and seeing him when you ^{had} already called ahead of time to see if he was going to be in?

Mr. Smith: Because I *didn't come in and* ~~and~~

Mr. Deans: Why didn't you just ask him on the phone? If all you were going to do ~~was~~ *was*

Mr. Smith: I was in town and I see Mr. Jackson very little. He handles the entire insurance portfolio and bonding portfolio for our company and I doubt if I see him once a year.

Mr. Deans: But you weren't in for that purpose; you were in *to see* ~~and~~

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E.M.

Mr. Smith: No, it doesn't hurt to go and see a fellow. ~~uh~~ I was going to ask him, so I dropped in to see him.

Mr. Deans: I see. And I am right in assuming that you did say that he just picked up the phone and called George Gathercole and said to you the meeting is arranged?

Mr. Smith: That's right.

~~Mr. Deans: You were there when he said that?~~

~~Mr. Smith: I was there, but I don't know if it~~

~~Mr. Deans: Was he say, the meeting is arranged~~

~~for a meeting?~~

~~Mr. Smith: I don't know what he said.~~

(Tape H-788 follows)

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4.20-4.25 p.m.
M.F.

H - 788 - 1

Mr. Deans: You were there when he did it?

Mr. Smith: I was there, yes.

Mr. Deans: What did he say? "The meeting ^{is} ~~was~~ arranged
for next Wednesday or ~~perhaps~~ ^{??}

Mr. Smith: Yes, Friday or whatever day it was, ^{at 11 o'clock,}

Mr. Deans: So that it ^{was} ~~is~~ only a matter of a couple of
days?

Mr. Smith: To my recollection it was a week, I think,
five days or a week.

Mr. Chairman: Any other questions?

Mr. Deans: Yes I have, but I don't know how relevant
they are.

Mr. Chairman: Thank you very much, Mr. Smith.

Mr. W. Newman: Let's have a recess.

Mr. Chairman: Do you want a recess? All right.

Mr. W. Newman: Mr. Chairman, will you be recalling

Mr. Smith?

Mr. Chairman: I don't know. If it were a personal
question of wish I would say I hope not, but I don't know.

Mr. Shibley: Not un^{less} it is necessary.

Mr. Chairman: We will have a recess for ¹⁰ ~~15~~ minutes
and return at half past.

Tape H - 789 follows

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4:40 - 4:45 pm
CA

H-789-1

The committee resumed at 4:40 o'clock, p.m.

Mr. Chairman: We'll get back to order please. Mr. Shibley

Mr. Shibley: May I call Mrs. Shuttleworth, please?

ANNE MARY SHUTTLEWORTH, Sworn.

Mr. Shibley: Mrs. Shuttleworth, what is your occupation?

Mrs. Shuttleworth: I am secretary to the president at Ellis-Don.

Mr. Shibley: How long have you held that position?

Mrs. Shuttleworth: About three years.

Mr. Shibley: Is your sole function within the office to act as secretary to him?

Mrs. Shuttleworth: No, it is not.

Mr. Shibley: What other functions do you fulfil?

Mrs. Shuttleworth: I publish and edit a company magazine, and numerous other jobs.

Mr. Shibley: Do you also screen his phone calls?

Mrs. Shuttleworth: No.

Mr. Shibley: Are you able to confirm that he had a telephone call with Mr. McAuliffe on April 16?

Mrs. Shuttleworth: I am not personally able to confirm it, other than his telling me about it the next morning.

Mr. Shibley: I see. He did tell you of that conversation?

Mrs. Shuttleworth: Yes, he called me from his home to say that we should be expecting Mr. McAuliffe, and that Mr. Grant and I should talk to him until he arrived after his meeting.

Mr. Shibley: Did he, in the course of giving you those instructions, communicate to you the gist of what he had told to Mr. McAuliffe on the preceding day?

Mrs. Shuttleworth: No, he had not.

Mr. Shibley: All right. Then the instructions he gave you were what in terms of arranging the meeting of the 17th?

Mrs. Shuttleworth: The instructions he gave me were that Mr. Grant and I were to brief Mr. McAuliffe and speak to him until his arrival.

H-789-2

Mr. Shibley: What time did Mr. McAuliffe arrive?

Mrs. Shuttleworth: He arrived 9:15, 9:20, thereabouts.

Mr. Shibley: And he met with you and Mr. Grant?

Mrs. Shuttleworth: That is correct.

Mr. Shibley: In the first instance?

Mrs. Shuttleworth: Yes.

Mr. Shibley: Did you produce your firm's file respecting the Hydro submissions at that time?

Mrs. Shuttleworth: We had it in the office, yes.

Mr. Shibley: And did you permit Mr. McAuliffe to examine it?

Mrs. Shuttleworth: Near the end of the interview, yes.

Mr. Shibley: So he had full access to the content of that file?

Mrs. Shuttleworth: Viewing it, yes.

Mr. Shibley: Did he ask for copies of any of the documents?

Mrs. Shuttleworth: Yes, he did.

Mr. Shibley: Which documents in particular?

Mrs. Shuttleworth: He didn't outline any specific documents, but we told him we were not prepared to give him a copy of any of the documents.

Mr. Shibley: So in fact he was not given copies?

Mrs. Shuttleworth: That is correct.

Mr. Shibley: But he was permitted to view the whole of the content of the file?

Mrs. Shuttleworth: Yes.

Mr. Shibley: And within that file, putting it another way; are you familiar with the productions that have now been made by Ellis-Don to me as counsel to this committee?

Mrs. Shuttleworth: By productions do you mean all the evidence that we have submitted?

Mr. Shibley: Documents. Yes.

Mrs. Shuttleworth: Yes, I am.

Mr. Shibley: Can you confirm that all documents which have ever existed referable to Ellis-Don's involvement with the Hydro project have been produced to me?

H-789-3

Mrs. Shuttleworth: Yes, I can.

Mr. Shibley: In the course of the meeting with Mr. McAuliffe on April 17, 1973, did you take notes of that meeting?

Mrs. Shuttleworth: No, I did not.

Mr. Shibley: And no one else did?

Mrs. Shuttleworth: No.

Mr. Shibley: What was said by you and Mr. Grant in the initial conversation with Mr. McAuliffe?

Mrs. Shuttleworth: We welcomed him, and I think our initial direction to the conversation was ~~was~~ requesting assurance from Mr. McAuliffe that he would not implicate our name or our president's name in the final presentation. We received that assurance from Mr. McAuliffe with the exception that our name would of course have to be used since we were one of the developers, but he further assured us that when people read the article they would never know that he had talked to us.

Mr. Shibley: Now in that respect, you have read the article of April 30 which is exhibit 172?

Mrs. Shuttleworth: Yes, I have.

Mr. Shibley: I note that in the first portion of this article there is an attempt at least of withholding the name of the informant. Do you agree with me as to that?

Mrs. Shuttleworth: There is an attempt in respect to that one particular phrase, yes.

Mr. Shibley: Was there some specific understanding with Mr. McAuliffe in respect of that portion of the information provided to him?

Mrs. Shuttleworth: No.

Mr. Shibley: Was it discussed at all?

Mrs. Shuttleworth: There was no discussion with reference to withholding our name in connection with that phrase. The only reference to withholding our name, or, I should say, the entire reference, was to the entire gamut of information we were providing.

Mr. Shibley: I see. And did he agree to that?

Mrs. Shuttleworth: He most assuredly did.

June 27/63

4:45 - 4:50 pm

C.B.

~~Mr. Shibley: He most assuredly did.~~
~~and did he agree to that?~~
Mrs. Shuttleworth: He most assuredly did.

Mr. Shibley: I see. Do you consider that that agreement was complied with?

Mrs. Shuttleworth: No, I do not.

Mr. Shibley: In respect of this article what portions do you say violate that understanding?

Mrs. Shuttleworth: I would say wherever he references paragraphs by Ellis-Don saying - Don Smith saying that it would be a violation of that understanding.

Mr. Shibley: Wherever he attributes statements specifically to...

Mrs. Shuttleworth: That is correct.

Mr. Shibley: ...Ellis-Don or Mr. Smith. You consider that was not in accord with the understanding.

Mrs. Shuttleworth: That is correct.

Mr. Shibley: Now then in connection with your meeting with Mr. McAuliffe, I mean you and Mr. Grant, did Mr. McAuliffe pose any questions to you?

Mrs. Shuttleworth: Yes he did.

Mr. Shibley: What were they?

Mrs. Shuttleworth: He posed the questions that Mr. Nixon ~~had~~ had asked in the House, and asked for ~~our~~ reply to them. He posed the questions, did we in fact know of relationship between Moog and the Premier, did we know in fact anything of their association in Florida, ~~and~~ did we in fact know of their association at their cottage, and in fact Mr. Grant and I did not.

Mr. Shibley: Yes. Did you ask you or Mr. Grant anything about a communication to Mr. Smith from someone ~~close~~ to the cabinet, referable to the Hydro project?

June 27/73

4:45 - 4:50 pm
C.B.

Mrs. Shuttleworth: No, he did not.

Mr. Shibley: He made no inquiry of you or Grant in that respect?

Mrs. Shuttleworth: No.

Mr. Shibley: Did he make any inquiry as to whether anyone had cautioned Mr. Smith that he shouldn't complain, or at least he should keep quiet otherwise he would jeopardize his opportunities to obtain government contracts?

Mrs. Shuttleworth: No he didn't.

Mr. Shibley: All right. Other than what he asked of you as you've reported it, did he ask any other questions?

Mr. Shuttleworth: He would have asked points of ~~clarification~~ clarification, but the interview was basically a briefing. I outlined the association that we had had with Hydro since the inception to the point in time that we were at, and questions he had would be in points of clarification on that.

Mr. Shibley: In that respect are you saying you outlined the sequence of events as it related to Ellis-Don's efforts to obtain this contract?

Mrs. Shuttleworth: Yes.

Mr. Shibley: Was there anything more than that in terms of the chronology that you outlined to him?

Mrs. Shuttleworth: I'm not sure what you mean.

Mr. Shibley: Did any of the points of reference that you made to him stray outside the ~~boundaries~~ ^{boundaries} of what was relevant to the Hydro contract?

Mrs. Shuttleworth: Well yes, the assurances concerning our not being mentioned, a fact that came up a

June 27/73

4:45- 4:50 pm

C.B.

(Mrs. Shuttleworth)

number of times; he commented ~~on~~ on this to some extent, he said he had been involved in this type of investigation before. He never revealed his ~~sources~~ sources. He was involved in some type of legal procedure on that particular matter and we had nothing to worry about in that regard. There would have been idle chit-chat on the ~~subject~~.

Mr. Shibley: Was ~~there~~ there any discussion at that meeting of the preferential treatment of Canada Square?

Mrs. Shuttleworth: I would tend to think there would be.

Mr. Shibley: Yes. Who made comment on it?

Mrs. Shuttleworth: I do recall Mr. McAuliffe mentioning this friendship in his initial questioning. That would have been where ~~it~~ it first was brought out.

Mr. Shibley: All right. Well then Mr. Smith joined you later did he?

Mrs. Shuttleworth: That is true.

Mr. Shibley: What time did he join you?

Mrs. Shuttleworth: Around 11.30.

Mr. Shibley: What can you recall of the conversation which took place while he was in attendance?

Mrs. Shuttleworth: I stayed for only perhaps the first minute and I left the meeting at that ~~time~~ time.

Mr. Shibley: In that minute did you hear anything of significance?

Mrs. Shuttleworth: Yes, I heard Mr. Smith say the business about being told to expect ~~the~~ you, and you've heard Mr. Smith's testimony on that. I was present when he made those comments.

11791-1-1

June 27, 1973

4.50-4.55p.m.

B.A.

H-791-1

(Mrs. Shuttleworth)

~~made these comments.~~

Mr. Shibley: I want you to be clear on that.

You overheard Mr. Smith say what? And would you not paraphrase it, please, but give you precise recollection as to the words used.

Mrs. Shuttleworth: All right. To the best of my recollection, Mr. Smith said, "I've had a call from someone close to the cabinet who has told me that you people are investigating and that I should expect, or would probably be receiving, a call from you".

Mr. Shibley: Yes.

Mrs. Shuttleworth: And, I'm sorry, I can't say it exactly, but it would have made some reference to the fact that he ~~wasn't~~ probably assumed they weren't, the government would not be particularly pleased ^{THAT THEY WERE} doing this.

Mr. Shibley: The government would not be particularly pleased that, ~~wasn't~~?

Mrs. Shuttleworth: You know, that the government would probably be a bit annoyed.

Mr. Shibley: At what?

Mrs. Shuttleworth: That they were being investigated in any particular issue.

Mr. Shibley: Was there any reference made while you were still present to the effect upon Ellis-Don's opportunities to receive government contracts?

Mrs. Shuttleworth: At that point, no.

Mr. Shibley: Not at that time. Have you given the committee the whole of your recollections of what you overheard at that point in time?

Mrs. Shuttleworth: Yes, I have.

Mr. Shibley: Now then, when did you once again participate in the discussion?

June 21, 1973
4.50-4.55p.m.
B.A.

Mrs. Shuttleworth: It was not in a manner of participation in further discussion. Mr. Smith and Mr. McAuliffe were preparing to leave for Toronto. I was out in the hall which is shortly down from Mr. Smith's office and from the exit door.

Mr. Shibley: Yes,

Mrs. Shuttleworth: Everyone was saying their goodbyes, and so on. Mr. Smith made a particular statement to Mr. McAuliffe at that time, similar to what is contained in Mr. McAuliffe's article.

Mr. Shibley: Again, because we are attempting to resolve some confusion here, I would like you to stop paraphrasing and as precisely as you can, restate, word for word what Mr. Smith had to say to Mr. McAuliffe.

Mrs. Shuttleworth: I can't do that. I recall very strongly my reaction to the statement, but I cannot recall the statement in any sense verbatim. I can only recall the elements it would have contained.

Mr. Shibley: We have all been reacting to Mr. Smith's statements, Mrs. Shuttleworth. What was your reaction, and to what were you reacting?

Mrs. Shuttleworth: The elements of the conversation would have been, someone associated with government warned, or told me, that if I pursued this matter I wouldn't get contracts. My reaction to that was, "Christ, you don't say something like that to the press".

Mr. Shibley: I gather that by reason -- that you have some political acumen. Mrs. Shuttleworth, is that correct?

Mrs. Shuttleworth: That's debatable.,

Mr. Bullbrook: You should be a director, Mrs. Shuttleworth.

Mrs. Shuttleworth: And I will tell you why my ~~was~~ reaction was that way. As the sentence in its simplicity was put, I thought, "I know nobody has ever said that.

June 21, 1973
4.50-4.55p.m.
B.A.

(Mrs. Shuttleworth)

McAuliffe is going to take the wrong impression if he takes it at face value". And I thought about why I didn't clarify it then, and I don't believe Mr. McAuliffe reacted in any particular way to it, so I felt perhaps he had taken the right approach and/or within the discussions of Mr. Grant or Mr. Smith had said, there may have been ~~at~~ some reference to this. He must know this particular phraseology referred to the various advice he got from numerous business associates in this regard.

Mr. Shibley: Notwithstanding the statement by Mr. Smith was made in the context of someone close to government had called him to that effect.

Mrs. Shuttleworth: No, that is incorrect.

Mr. Shibley: I want to get you again on that point.

(Tape H-792 follows)

June 27, 1973
4.55-5.00 p.m.
M.F.

H - 792 - 1

(Mr. Shibley)

close to government had called him to that effect?

Mrs. Shuttleworth: No, that is incorrect.

Mr. Shibley: I want to get you again on that point.

Mrs. Shuttleworth: I have no recollection of this being

a call particularly, Whether he called or someone called him, or whether it was a meeting. The element is someone associated with the government told him.

Mr. Shibley: I see. So what you are correcting me upon is that from what was said by Mr. Smith you could not tell whether he received ~~this~~ caution in the course of a meeting, telephone call or by written communication?

Mrs. Shuttleworth: That is correct.

Mr. Shibley: Now then, why are you able to say that you knew then that it wasn't so?

Mrs. Shuttleworth: Could you specifically relate that?

Mr. Shibley: Earlier in your evidence you said the reason why you reacted was that you knew it wasn't so.

Mrs. Shuttleworth: By "it" you mean someone threatening him and saying he would never get government contracts?

Mr. Shibley: Yes. How could you be certain that that had not happened?

Mrs. Shuttleworth: Because Mr. Smith had ~~on~~ on many occasions discussed this matter. I would have been party on a great many ^{OF THOSE} occasions to that discussion, whether it was with ~~OTHER~~ employees or directly to myself. He had never at any point imparted to me that meaning, that he had been warned that he would never get a government contract.

Mr. Shibley: So can we take it that it is only to the extent of your own knowledge and information that you felt that this communication had not been made to Mr. Smith?

Mrs. Shuttleworth: That is correct and I would feel that if such a major statement had been received by him he would

H - 792 - 2

(Mrs. Shuttleworth)

haven't told someone.

Mr. Shibley: Had he never made mention of it then to you or anyone else in your presence until the interview with Mr. McAuliffe?

Mrs. Shuttleworth: No. He had made mention of the fact that various people would have proffered the advice that, you know, "it is going to hurt you, Don, if you go ahead with this," but never had he said that he had been threatened by someone in government that he would never get work and ~~therefore~~ ^{that he} should stop pursuing it, never.

Mr. Shibley: And were you concerned in terms of a reaction because the words used could be interpreted by Mr. McAuliffe as a threat?

Mrs. Shuttleworth: I was concerned that the ~~words~~ ^{words} used might be taken incorrectly from their meaning.

Mr. Shibley: And by incorrectly what do you mean?

Mrs. Shuttleworth: That Mr. McAuliffe might deal with that sentence as a threat received when in fact it was not a threat received, to my knowledge, ever.

Mr. Shibley: The words used, although you cannot remember them, were capable of that interpretation?

Mrs. Shuttleworth: Yes. Otherwise I would not have had that particular reaction.

Mr. Shibley: Exactly. Now then as secretary to Mr. Smith, can we take it that you prepared the letter of July 14, 1972, from Mr. Smith to Mr. Cronyn, which is now exhibit 175?

Mrs. Shuttleworth: Yes.

Mr. Shibley: You prepared that letter? Is that correct?

Mrs. Shuttleworth: Yes, I did.

Mr. Shibley: Now I gather also from what you have stated that you are very much informed as to the day-to-day activities and communications of Mr. Smith. Is that correct?

Mrs. Shuttleworth: Relatively speaking, yes.

June 27, 1973
4.55-500 p.m. ~~XXXXXXXXXX~~
M.F.

H - 792 - 3

Mr. Shibley: In respect of this letter to Mr. Cronyn,
can you assist the committee as to whether there had been any
prior communications between Mr. Smith and Mr. Cronyn referable
to the Hydro contract?

Mrs. Shuttleworth: By communication; are you meaning
written?

Mr. Shibley: Of any kind.

Mrs. Shuttleworth: Prior to July 14th? I seem to think
there had been but I can't bring the chronology into it.

Mr. Shibley: Was Mr. Cronyn a director of the company
in whom Mr. Smith confided on a regular basis?

Tape H - 793 follows



June 27th, 1973

5 - 5.05 pm

H 793 - 1

AA

(Mr. Shibley)

~~the director of the company in whom Mr. Smith confided~~
~~on a regular basis?~~

Mrs. Shuttleworth: No, I would not say Mr. Smith confides regularly in Mr. Cronyn.

Mr. Shibley: With respect to the efforts of Ellis-Don to obtain the Hydro contract, was Mr. Cronyn sought out on a regular basis by Mr. Smith for advice?

Mrs. Shuttleworth: I would say on a sporadic basis, Mr. Shibley?

Mr. Shibley: Yes, and when you say sporadic, how frequent would that be?

Mrs. Shuttleworth: Well, I would say sporadic, because my recollection of this particular letter, there had been no communication with Mr. Cronyn for some length of time; for a fairly lengthy period of time.

Mr. Shibley: Did Mr. Smith discuss the content of this letter as at the time of dictating it to you?

Mrs. Shuttleworth: Discuss in what way?

Mr. Shibley: In terms of its content. Was he making comments to you or did he converse with you as to what was bothering him when he wrote this letter?

Mrs. Shuttleworth: I knew what was bothering him and I think the letter itself would have brought his thoughts together on it so I don't think there would have been any additional conversation in reference to it.

Mr. Shibley: Did he tell you the purpose of writing a letter to Mr. Cronyn?

Mrs. Shuttleworth: No, I don't believe he did. It's not something you stop and analyze each time you write a letter.

Mr. Shibley: Do you know of any earlier advice from Mr. Cronyn to Mr. Smith that Mr. Smith should have Ernie

June 27th, 1973

5 5.05 pm

AA

H 793 - 2

(Mr. Shibley)

Jackson call Mr. Gathercole to arrange the meeting?

Mrs. Shuttleworth: No, no such advice.

Mr. ~~Shibley~~ Shibley: Was there any communication of any form received by anyone in Ellis-Don in response to this letter?

Mrs. Shuttleworth: There was none.

Mr. Shibley: None to your knowledge?

Mrs. Shuttleworth: To my knowledge, there was none.

Mr. Shibley: Did you ever attend or be an observer at the time, of a meeting between Mr. Smith and Mr. Cronyn referable to Hydro?

Mrs. Shuttleworth: No, I hadn't been aware that there was such a meeting.

Mr. Shibley: I am not saying there was. I just want to know ~~how~~

Mrs. Shuttleworth: I was not present at any such meeting.

Mr. Shibley: I see. So you have never had occasion to overhear any ~~was~~ conversation between Mr. Cronyn and Mr. Smith referable to the Hydro contract?

Mrs. Shuttleworth: I do recall being present when there was one phone conversation.

Mr. Shibley: When was that?

Mrs. Shuttleworth: I believe it was at the time that Mr. Cronyn suggested Mr. Smith see Mr. Gathercole if he wished to present his case further.

Mr. Shibley: Can you assist us as to when that was?

Mrs. Shuttleworth: My recollection would be early months of 1972, Mr. Shibley.

Mr. Shibley: It would be prior to July 14, 1972?

Mrs. Shuttleworth: I believe so.

Mr. Shibley: And you know of no telephone or other communication from Mr. Cronyn subsequent to July 14 and prior to, let's say, the first of December, 1972?

June 27th, 1973

5 - 5.05 pm

H 793 - 3

AA

~~(Mrs. Shuttleworth)~~

Mrs. Shuttleworth: No.

Mr. Shibley: Do you know of any communication to
Mr. Smith from any other person ^{who} ~~and~~ might be considered close
to the government?

Mrs. Shuttleworth: Not personally, no.

H 794 - 1 follows

June 27/73
5.05 to 5.10 pm
DT

(Mr. Shibley)

~~Please to the government?~~

~~Mrs. Shuttleworth: Yes, and it's the information~~

Mr. Shibley: I am entitled to ask you what your information is, as well as what your knowledge is, before this committee. Have you any information in that respect?

Mrs. Shuttleworth: Yes, and it's the information that you have in reference to Mr. Barnicke.

Mr. Shibley: Yes, and that's the reference in the exhibit 175, is that correct? Is that what you are talking about?

Mrs. Shuttleworth: Just a moment.

Mr. Shibley: The second page.

Mrs. Shuttleworth: Yes, 175.

Mr. Shibley: Other than that reference, was there any other communication of which you are aware, from anyone close to government, to Mr. Smith?

Mrs. Shuttleworth: No.

Mr. Shibley: In particular -- and I am not suggesting by my question that I have information to this effect, but I want to be very clear on this -- did Mr. Fleck ever call Mr. Smith during the period February, 1972, to date?

Mrs. Shuttleworth: No, he did not and has not called.

Mr. Shibley: Now, then, Mrs. Shuttleworth, did you send to Mr. Smith a copy of the April 30 article in the Globe and Mail?

Mrs. Shuttleworth: Yes, I did.

Mr. Shibley: Did you ~~not~~ send it to him under cover of a covering letter?

Mrs. Shuttleworth: That's true.

Mr. Shibley: Have you your duplicate copy of that letter?

Mrs. Shuttleworth: There was no duplicate copy.

It was a hand-written note.

June 27/73
5.05 to 5.10 pm
DT

Mr. Shibley: What did you say in the note?

Mrs. Shuttleworth: I began the letter and I said, "We got shafted." Then, I went on to say I had tried to get in touch with Mr. McAuliffe on two occasions, on the ~~morning~~ morning of April 30 and was unable to, ^{and} only had spoken to his city editor but was unable to reach him. I said there had been discussion ~~as to whether we should try~~ ^{and} attempt ~~him on a ship~~ ^{to contact} in reference to the article, and we felt that he couldn't do anything there, ~~so there was no point in contacting him until~~ ^{the} he arrived in Europe, and that was it.

Mr. Shibley: And why did you handwrite the note as opposed to typing it?

Mrs. Shuttleworth: I have no love for typing for one, and I don't generally type notes. I would reserve that for something that has to have some proper appearance outside of the corporation.

Mr. Shibley: Now, upon Mr. Smith's return, did you discuss the article with him then?

Mrs. Shuttleworth: Yes.

Mr. Shibley: And what was said between you on that occasion?

Mrs. Shuttleworth: We would have discussed the fact that Mr. McAuliffe had broken his confidence with our firm in regard to the article. We would have discussed the fact that there was not much doubt that the reference to someone who wished to be unidentified was Mr. Smith. We would also have discussed the fact that the phrase attributed there was not a phrase Mr. Smith had ever used to Mr. McAuliffe or to anyone, that phrase being: "I was told to keep my mouth shut or I would never get another government job."

Mr. Shibley: You discussed that between you on that occasion?

Mrs. Shuttleworth: Yes.

~~Mr. Shibley: Did you tell Mr. Smith that the words he had used at the time of their parting on April 11 --~~

11-795-1

Mr. Shibley: Did you tell Mr. Smith that the words he had used at the time of their parting on April 17 were open to that interpretation?

Mrs. Shuttleworth: No, I did not.

Mr. Shibley: So you did not communicate your earlier concern in that respect to Mr. Smith when you discussed it with him on his return?

Mrs. Shuttleworth: No.

Mr. Shibley: Have you since discussed that with him?

Mrs. Shuttleworth: Yes, I have.

Mr. Shibley: When did you do that?

Mrs. Shuttleworth: That was done Friday following his testimony and other testimony here at the hearings.

Mr. Shibley: Have you been following that testimony?

Mrs. Shuttleworth: Yes, I have.

Mr. Shibley: By transcript?

Mrs. Shuttleworth: By transcript, yes.

Mr. Shibley: So you knew precisely the testimony he had been giving to this committee, and you took it up with him?

Mrs. Shuttleworth: I was present the second day of his testimony. I have not had the opportunity to read the testimony of his first day. During our discussion that Friday afternoon I was ~~xx~~ scanning through Wednesday's testimony.

Mr. Shibley: Over the course of this past weekend have you ^{re}confered with Mr. Smith respecting his evidence before this committee?

Mrs. Shuttleworth: I spoke to him on Friday and I talked to him on Monday about it.

Mr. Shibley: And was it as a result of those discussions that the letter which is now exhibit ~~12~~ 175, dated July 14, 1972, surfaced?

Mrs. Shuttleworth: Yes, that is correct.

Mr. Shibley: And in that respect did you refresh his memory of the existence of that letter?

H-796-2

Mrs. Shuttleworth: No, I did not refresh his memory. He recalled it.

Mr. Shibley: He recalled it himself?

Mrs. Shuttleworth: Yes.

Mr. Shibley: In the course of the period February ~~1972~~ talking about early February 1972 and following, did Mr. Smith tell you, firstly, that he had been to dinner with Bob Tamblyn, and been told that they were already celebrating at Canada Square?

Mrs. Shuttleworth: Yes, he did.

Mr. Shibley: Did he thereafter reference to you, or in your presence, the fact that Mr. Moog was a friend of Premier Davis?

Mrs. Shuttleworth: I would tend to think that I would have received that knowledge from him.

Mr. Shibley: What was the first occasion, in point of time when you witnessed any comment, observation or writing by Mr. Smith which would indicate that he had an awareness of the relationship between Mr. Moog and the Premier as friends?

Mrs. Shuttleworth: It would be, and this is by a process of elimination, some time ~~after~~, say, several months, after our submitting the proposal, and again some time previous to this and subsequent announcement of ^{the} contract.

Mr. Shibley: Previous to this, you are referring to exhibit 175, the letter of July 14? Is that correct?

Mrs. Shuttleworth: That is correct.

Mr. Shibley: Can you tie it down any more closely for the committee? We are now talking ^{over} a period of February, March, April, May, June and mid-July. Had he told you in early February of what he had heard at dinner at Bob Tamblyn's? Did he mention it anyway?

Mrs. Shuttleworth: Yes he told me of what he had heard at Mr. Tamblyn's.

~~Mr. Shibley: And regarding...~~

H-796-1 follows

June 27/73

5:15- 5:20 pm

C. E.

(Mr. Shibley)

~~who had been in the office of the~~
~~Secretary.~~
~~Mr. Shibley: Did he express in your presence or~~
to you any suspicions that he had respecting the circumstances
of Canda Square and its dealings with Hydro?

Mrs. Shuttleworth: Yes, he ~~was~~ would have made
a statement to that effect at that time.

Mr. Shibley: YOU have the habit of saying
he would have made a statement. Did he make a statement?

Mrs. Shuttleworth: Yes he did.

MR. Shibley: YOU are not speculating in this
respect?

Mrs. Shuttleworth: NO.

Mr. Shibley: All right. When did he make
the first comment of that ilk in your presence?

Mrs. Shuttleworth: I believe that was the
first occasion, Mr. Shibley

Mr. Shibley: When?

Mrs. Shuttleworth: Following the dinner with
Mr. Tamblin, that would have ~~been~~ led him to suspect
in such a short period after the submission of our own
proposal that another firm could be in a position that
"they were celebrating".

Mr. Shibley: Yes. And did he go on to comment
as to why he thought Canada Square was receiving preferential
~~that treatment~~ treatment?

June 27/73

5:15 - 5:20 pm

C.B.

Mrs. Shuttleworth: I do not recall that he did.

Mr. Shibley: And you cannot assist the committee as to the first occasion on which he might have referenced the friendship between the Premier and Mr. Moog as a circumstance surrounding the letting of this contract.

Mrs. Shuttleworth: No I can't.

Mr. Shibley: Did he in fact ever make reference to that circumstance?

Mrs. Shuttleworth: Yes he did.

Mr. Shibley: So you are certain that he did refer to it, but you are uncertain as to when he first made reference to it?

Mrs. Shuttleworth: That is correct.

Mr. Shibley: Did Mr. Smith ever discuss with you his own efforts to obtain for Ellis--Don a more careful consideration of the proposals submitted by his firm?

Mrs. Shuttleworth: Yes he did.

Mr. Shibley: In particular did he discuss with you or in your presence the need to establish communication with certain people to bring about that result?

Mrs. Shuttleworth: Yes, he felt he should see someone in Hydro and discuss our proposal further.

Mrs. Shibley: Did he say anything about discussing your proposal with anyone outside of Hydro, but within government?

Mrs. Shuttleworth: No.

Mr. Shibley: Did he make any mention of the need to discuss the matter with persons politically connected?

June 27/73

5:15- 5:20 pm

C.B.

Mrs. Shuttleworth: No.

Mr. Shibley: You know of the memorandum wherein he suggested that contact be established with Mr. Dillon?

Mrs. Shuttleworth: Yes, that is correct.

Mr. Shibley: And possibly there would be discussions with Mr. John White?

Mrs. Shuttleworth: Yes, Mr. White would be available.

Mr. Shibley: And you know of his written communication with Mr. Cronyn?

Mrs. Shuttleworth: Mr. Cronyn is a director.

Mr. Shibley: And you know of the communication with Mr. Barnicke?

Mrs. Shuttleworth: Yes.

Mr. Shibley: And Mr. Jackson?

Mrs. Shuttleworth: Yes.

Mr. Shibley: Was there ever any discussion in your presence directed to the effect that this ~~group~~ ~~group~~ group ~~group~~

H797 to follow

June 27th, 1973

5:20 - 5:25 pm

H 797 - 1

AA

(Mr. Shibley)

~~in your presence directed to the effect that this group~~
of men, or any one of them, might have on an assessment by Hydro of the Ellis-Don proposal?

Mrs. Shuttleworth: I'm sorry, could you repeat that?

Mr. Shibley: Was there ever any discussion in your presence as to the effect this group of men, or any ~~one~~ of them, might have regarding the evaluation of the Ellis-Don proposal by Hydro?

Mrs. Shuttleworth: No, there was not.

Mr. Shibley: Did you participate in establishing communication with any of these people?

Mrs. Shuttleworth: I may have placed certain calls to Mr. Candy, Mr. Smith did ~~to~~ try and contact him and did, in fact, contact him on various occasions. I believe I would have placed that call that I have mentioned to Mr. Cronyn. I did not place any call to Mr. Jackson or to Mr. Barnicke and I think that's all the people you are referring to.

Mr. Shibley: Was there ever any written communication between your office and by that ~~person~~ ^{within} Ellis-Don and any other gentleman ~~that~~ I have just listed to you?

Mrs. Shuttleworth: Yes, there was this written communication with Mr. Cronyn.

Mr. Shibley: Other than this document, was there ever any ~~...~~

Mrs. Shuttleworth: ~~We are~~ ^{We are} not speaking of Hydro officials now?

Mr. Shibley: No, I am not talking about Hydro officials.

Mrs. Shuttleworth: No, none of ~~these~~ ^{these} people to my knowledge, by anyone in our firm.

Mr. Shibley: All right. At the time that Mr. McAuliffe effected his interviews in London, did he take take notes?

Mrs. Shuttleworth: Yes, he did take some notes.

June 27th, 1973

5.20 - 5.25 pm

H 797 - 2

AA

~~(Mr. Shibley)~~

Mr. Shibley: I have no further questions.

Mr. Walker: I have a question.

Mr. Chairman: Mr. Walker.

Mr. Walker: I wonder if ~~it~~^{he} could explore the telephone call

that you attempted to make to Mr. McAuliffe, following the production of the April 30~~th~~ article?

Mrs. Shuttleworth: Yes. I tried to reach Mr. ~~McAuliffe~~^{McAuliffe} on first seeing the article for two reasons; the one being that I was so appalled that he had blatantly broken this confidence and the second one being my concern about the unidentified contractor. I called him ⁹ say ~~nine~~ o'clock ~~on~~ or shortly before, the first time. He was not in. I left a message. When I had received no further call in another hour, I called back again. He was unavailable. I left a message. Then, perhaps 11 ¹¹ his city editor called back to me in reference to the message I had left. ~~He~~ He wanted to know why I was calling Mr. McAuliffe and I said it was in reference to the Hydro article. He said that they were extremely busy there this morning, as I could understand, and could he talk to me. I said we had dealt with Mr. McAuliffe in the past and I wished only to deal with Mr. McAuliffe now. He wanted to know what in particular it was with reference to the article I wanted to discuss with Mr. McAuliffe. And I said I wanted to discuss the entire content.

He made some further statement about the fact that he was asking these questions because he was trying to decide whether ~~he~~^{we} should arrange for Mr. McAuliffe to call me because they were so busy and I said we gave Mr. McAuliffe a great deal of our own time in this matter. I felt that Mr. McAuliffe could spare a few minutes that day to return my call.

H 798 - 1 follows

H-798-1

(Mrs. Shuttleworth)

~~_____~~
~~_____~~
He never did.

Mr. Walker: Who was the city editor?

Mrs. Shuttleworth: I do not recall the name.

Mr. Walker: Did he ever say that he had told Mr. McAuliffe
of your call?

Mrs. Shuttleworth: No, he didnot say that he had told
Mr. McAuliffe. It was my impression that he would be sorting
through the calls to see which ones got priority. However, I don't
know whether Mr. McAuliffe would see his calls first and then his
city editor does, or vice versa, or what the story is.

Mr. Walker: Did ~~he~~ ever contact you after that day? You
said he did not return your call that day.

Mrs. Shuttleworth: No, he never did.

Mr. Walker: And you have not talked to him since then?

Mrs. Shuttleworth: No I haven't.

Mr. Walker: Thank you.

Mr. Chairman: Mr. Deans.

Mr. Deans: Thank you.

Were all the documents pertaining to the Hydro contract
kept in one file?

Mrs. Shuttleworth: Yes they were.

Mr. Deans: Was Mr. McAuliffe given the file to look at?

Mrs. Shuttleworth: Yes, he was.

Mr. Deans: Was this document, the letter of July 14, one
of the documents in the file?

Mrs. Shuttleworth: No, it wasn't.

Mr. Deans: You didn't consider this to be one of the
documents pertaining to the Hydro contract?

Mrs. Shuttleworth: It is labelled personal and confidential
I have a separate file for personal and confidential letters, and
it was in that particular ~~one~~. Granted it does reference Hydro, but
it is my practice to put ~~personal~~ personal and confidential letters in
a separate file.

H-798-2

Mr. Deans: There are no other personal and confidential letters pertaining to any matter which might in any sense be considered to be a part of this inquiry?

Mrs. Shuttleworth: No, there are not.

Mr. Deans: There is nothing else. Can I ask you ^{this?} I recall when Mr. Smith was giving his testimony that he seemed to think that his first reference to a call from Queen's Park, or a call from someone close to the Cabinet or the Premier's office, in regard to the Globe and Mail inquiry was made shortly after 9 ~~am~~ o'clock in the morning. ~~Now~~ He said he saw Mr. McAuliffe then for a short time, and then later again.

Mrs. Shuttleworth: I'm sorry, could you repeat just this portion that you are saying? I'm confused.

Mr. Deans: Gladly. ~~Mr. Smith~~ I seem to recall Mr. Smith saying that he saw Mr. McAuliffe twice ~~that~~ that morning.

Mrs. Shuttleworth: Yes, that is correct.

Mr. Deans: And that he thought that his first reference to Mr. McAuliffe was when he said to him something to the effect that "I was called from someone, some place, telling me that the Globe and Mail would likely be investigating this matter," and then went on from there. He thought that occurred at ~~that~~ ⁹.

Mrs. Shuttleworth: Yes, that is correct. That is what I have said.

Mr. Deans: I understood you to say that that statement was made by Mr. Smith to Mr. McAuliffe at about 11:20?

Mrs. Shuttleworth: No.

Mr. Deans: I think the record would show that, because I noted it at the time.

Mrs. Shuttleworth: I did say that Mr. Smith arrived for his interview at about 11:20; that's when I shortly thereafter left.

Mr. Deans: And you were in the meeting for about a minute, and that was what you heard Mr. Smith say to Mr. McAuliffe.

H-798-3

Mrs. Shuttleworth: No.

Mr. Deans: Well, that is what you said, I believe. I would like to have that portion of the record looked at because I recall that being the specific statement made by you, ~~and~~ I noted it at the time, because it seemed to be in conflict with what Mr. Smith had said, and I apologize if it isn't so, but I did note it because I believed that is what you said at the time. What then did you hear Mr. Smith say to Mr. McAuliffe at 11:20 in that one minute?

Mrs. Shuttleworth: In that one minute ~~my~~ my recollection is an exchange of pleasantries; nothing would stick in my mind particularly.

Mr. Deans: You did make a statement that you ~~was~~ heard him say something beyond ~~just~~ just an exchange of pleasantries in that one minute.

Mr. Chairman: Was that on the way out?

Mr. Deans: ^{No} ~~that~~ that was at 11:20.

Mr. Chairman: I can't help you. Can you help Mr. Shibley?

Mr. Shibley: I think the witness said that when she and Mr. Grant first met with Mr. McAuliffe that he asked the question whether - I'm just trying to remember now myself. Let me start back.

When Mr. Smith first entered the meeting he made a statement opening the conversation to the effect that "You fellows are stirring up quite a storm. I've received a call~~ing~~

H-799-1 follows

June 27, 1973

5.30-5.35p.m.

B.A.

H-799-1

(Mr. Shibley)

~~opened the conversation on the phone, I think he said,~~
~~that he was talking to someone from someone,~~

I think he said, "close to the government, telling me to expect you," and I believe that was the whole of what was said at that point in time, and then, in the second conversation that you overheard, the more significant one, being at the time of their leaving, when, without being able to give the precise words ---

Mr. Deans: I can recall that, yes.

Mrs. Shuttleworth: Okay.

Mr. Shibley: ~~was~~ you said the words used were capable of the interpretation by McAuliffe that Mr. Smith had received a call from someone close ~~to~~ to government threatening that if he didn't stop stirring it up he would not get government contracts. It was capable of that inference; and that it excited concern on ~~the part of~~ ~~the~~ ~~part of~~ but that you failed to say anything because McAuliffe didn't respond to the comment. Now, have I restated your evidence accurately?

Mrs. Shuttleworth: If I said that the statement about the tip-off about the Globe took place when Mr. Smith first came into the interview at 11.30, then I am sorry, that is an error in testimony.

Mr. Deans: Thank you.

Mr. Shibley: That is what you have ~~said~~ said.

Mr. Deans: ~~is~~ it may not have been important.

I believe that is what you said.

Mrs. Shuttleworth: My ~~entire~~ ^{always} recollection through this past while has been that that particular statement was made when Mr. Smith arrived for perhaps a half a minute, and then left for his meeting.

Mr. Deans: You believe that, then, happened ~~around~~ at 9.30 or around nine o'clock?

June 27, 1973

5.30-5.35p.m.

B.A.

Mrs. Shuttleworth: That's right.

Mr. Deans: Then, just one other point. You say that there was simply an exchange of pleasantries. Mr. Smith saw Mr. McAuliffe at the ~~work~~ ~~time~~ o'clock period for only enough time to make that one statement to your recollection. Or little more.

Mrs. Shuttleworth: Yes, I would say that would be it.

Mr. Deans: At 11.20 or thereabouts, when Mr. Smith spoke ~~to~~ ^{with} Mr. McAuliffe, you heard him only exchange pleasantries.

Mrs. Shuttleworth: Yes, he would have ~~be~~ explained, again, I am sure, that he had been at a meeting and apologized for not being present at the total portion of the interview, and so on.

Mr. Deans: You made the statement that you impressed upon Mr. McAuliffe the need to maintain the anonymity of the company.

Mrs. Shuttleworth: Yes.

Mr. Deans: And that you made it clear, both yourself and Mr. Grant?

Mrs. Shuttleworth: Mr. Grant, yes.

Mr. Deans: Made it clear to Mr. McAuliffe that you didn't want any of the documents, or any of the statements made by you or Mr. Grant to be given a name in terms of any reporting.

Mrs. Shuttleworth: Yes, as did Mr. Smith.

Mr. Deans: Did you hear Mr. Smith say that?

Mrs. Shuttleworth: Yes.

Mr. Deans: When?

Mrs. Shuttleworth: My recollection would be a reiteration of it at the end of the interview period.

Mr. Deans: When they were walking out of the door?

Mrs. Shuttleworth: Shortly ~~at~~ prior to that.

Mr. Deans: Were you in the room prior to them...?

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5.30-5.35p.m.

B.A.

Mrs. Shuttleworth: I was not in the room. I cannot tell you whether it would have been just outside Mr. Grants office at this point; whether, in fact, I was approaching as their meeting was terminating and they were actually within the ~~room~~ office.

Mr. Deans: Can you recall what Mr. Smith said?

Mrs. Shuttleworth: I cannot recall the exact words;

~~we~~ had all three of us repeated, in some form or another, ~~our~~ our concern about keeping our name out of it.

Mr. Deans: To each other?

Mrs. Shuttleworth: No, to Mr. McAuliffe, and to each other.

Mr. Deans: Were you present with Mr. Smith and Mr. McAuliffe long enough to be sure that Mr. Smith actually said those words?

Mrs. Shuttleworth: Yes. They are not very long.

Chairman
Mr. [redacted]: Mr. Shibley --

Mr. Shibley: Excuse me, I just want to follow up on that line of questioning for a moment, Mr. [redacted].

(Tape H-X800)



June 27/73

5:35 - 5:40 pm

C.B.

(Mr. Shibley)

~~would you excuse me I just want to follow up on that~~
~~line of questioning for a moment Mr. Bulbrook.~~ Were
you aware of that Mr. Smith had been in communication with
Mr. Manthorpe on an anonymous basis in November of 1972?

Mrs. Shuttleworth: Yes.

Mr. Shibley: And that he subsequently wrote
a letter to Mr. Manthorpe congratulating him respecting
some award that he'd received?

Mrs. Shuttleworth: Yes.

Mr. Shibley: Have you a copy of that letter?

Mrs. Shuttleworth: No, I don't.

Mr. Shibley: Are you aware that the content
of that letter disclosed to Mr. Manthorpe by inference
the identity of the anonymous source of information as
referable to the Hydro contract?

Mrs. Shuttleworth: No, I had thought myself
that Mr. Smith must have identified himself to Mr. Manthorpe
previous to that letter.

Mr. Shibley: With respect to the communications
made to Mr. Manthorpe, Mr. Smith employed ^{anonymity} ~~anonymity~~ as
a method of avoiding disclosure of the source? Is that correct?

Mrs. Shuttleworth: Yes.

Mr. Shibley: Yet when the time came to deal
with Mr. McAuliffe he granted him a personal interview?

Mrs. Shuttleworth: Yes, he did.

I think the period of time had been reached where he had
made a decision to take a moral stand on the particular matter.

Mr. Shibley: Exactly. He reached a point of time

June 27/73

5:35 - 5:40 pm

C.B.

(Mr. Shibley)

when he decided to take a moral stand on the matter. Is that your words?

Mrs. Shuttleworth: Yes those are my words.

Mr. Shibley: Was it a situation where he had reached a point of time when he was prepared to be identified with allegations referable to the manner in which Hydro let this contract?

Mrs. Shuttleworth: No, he was not prepared to be identified as the source of information referencing how Hydro let the contract.

Mr. Shibley: Mrs. Shuttleworth, he had a change of attitude sometime between November when he made anonymous telephone calls and April when he gave personal interviews. Isn't that so?

Mrs. Shuttleworth: That is very definitely so.

Mr. Shibley: Yes, and in fact his instructions to you on the occasion of that personal interview was to make full disclosure to Mr. McAuliffe. Isn't that so?

Mrs. Shuttleworth: Of our files and our information, yes.

Mr. Shibley: In addition, also referred to your files you've made reference to a confidential file separate from the Hydro file?

Mrs. Shuttleworth: Yes, it deals with varied matters.

Mr. Shibley: Have you examined that particular file to elicit from it all documents that it might contain which are ~~relevant~~ relevant to any of the issues before this committee?

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5:35 - 5:40 pm

C.B.

Mrs. Shuttleworth: Yes I have.

Mr. Shibley: And you are ~~satisfied~~ satisfied that the only document was the letter of July 14, which has now been produced?

Mrs. Shuttleworth: Yes I am.

Mr. Shibley: Now returning to this other question, anonymity; were you in any way a party to the anonymous calls in a sense of being there when they were made by Mr. Smith?

Mrs. Shuttleworth: No I was not.

Mr. Shibley: But you are aware that he did make them?

Mrs. Shuttleworth: Yes.

Mr. Shibley: How did that come to your attention?

Mrs. Shuttleworth: I was aware of the first call; ~~say~~ my impression is it was made while Mr. Smith was in our Toronto office. He told me about it the next day.

Mr. Shibley: Yes, when he gave you instructions respecting the McAuliffe interview, did he say anything to you then, that you were not to produce any documents or say anything unless and until you elicited an undertaking from Mr. McAuliffe, that he was not to identify in any way any part of the information afforded to him?

Mr/s. Shuttleworth: The inference was very definitely there. I cannot say he said "Don't say a word until he promises not to say anything".....

H 801 to follow

June 27/73

5.40 to 5.45 pm

DT

(Mrs. Shuttleworth)

~~I cannot say -- He said, "Don't say a word until he promises not to say anything" but he would have made -- my understanding, my reaction to it was, ^{to} ensure that our name would be kept out of it.~~

Mr. Shibley: All right. What I am wondering about, Mrs. Shuttleworth, is whether that was more your instinct ~~than~~ ^{and} that of Mr. Grant, than it was the instinct of Mr. Smith to be cautious?

Mrs. Shuttleworth: No, in the conversation that we had had that morning, when he instructed me that Mr. McAuliffe would be arriving, he mentioned this business about keeping our name out at that time. In fact, I believe he said that he had discussed that aspect of it with Mr. McAuliffe that night.

Mr. Shibley: Had Mr. Smith, prior to April 17, ever expressed himself in terms of ^{"I am never going to get another government job anyway and I might as well say what's on my mind"}?

Mrs. Shuttleworth: No.

Mr. Shibley: Never used that kind of phraseology?

Mrs. Shuttleworth: No.

Mr. Shibley: What made you come to the conclusion that ~~xxx~~ he had decided as of the time of the interview to take a moral stand respecting the way Hydro let this contract?

Mrs. Shuttleworth: We discussed it. There had been various aspects, various points of discussion, from the time prior to his contacting Mr. Manthorpe ^(seeing) until ~~see~~ Mr. McAuliffe, where he would ~~have~~ and did question himself and myself as to whether something further should be done in an appalling situation where there is not fairness in government contracts.

Mr. Shibley: Thank you.

Mr. R. G. Hodgson: Mr. Chairman, I wonder if we have established ^{that} exhibit 169 was typed by this ~~secretary~~?

Mr. Chairman: ~~He~~ ^{see} admitted to 175 but I don't know about 169.

Mr. R. G. ~~Max~~ Hodgson: She has made no reference to this being in her personal confidential file.

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5.40 to 5.45 pm
DT

Mr. Bullbrook: What's 169?

Mr. Genest: ~~The~~ Letter to Seguin.

Mr. Chairman: Exhibit 169 is from Ellis-Don to
Seg Seguin.

Mr. Shibley: Have you seen that document before?

Mrs. Shuttleworth: Yes, I have.

Mr. Shibley: You prepared it?

Mrs. Shuttleworth: Yes, I did.

Mr. Shibley: In connection with that letter to
Mr. Seguin, had all of the communications that were considered,
in terms of calling Mr. Dillon and so on, been attempted prior
to that date?

Mrs. Shuttleworth: Yes.

Mr. Shibley: And by August 21, I gather Mr.
Smith had given up on that avenue of approach and decided on
a direct communication with one of the commissioners in whom
he had confidence?

Mrs. Shuttleworth: He had heard Mr. Seguin was
a man in whom he might have confidence, but I would say that this
was a turning point in that moral decision.

~~Mr. Seguin was a man in whom he might have confidence, but I would say that this was a turning point in that moral decision.~~

(802 to follow)



June 27/73
5:45 - 5:50 pm
CA

H-802-1

~~(Mrs. Shuttleworth)~~

~~turning point in that term's session~~

Mr. Shibley: Yes. When you say "a turning point" can we then take it ^{that} ~~was~~ the letter of July 14 to Mr. Cronyn was not that turning point?

Mrs. Shuttleworth: No.

Mr. Shibley: The purpose of that letter was what?

Mrs. Shuttleworth: You want my impression of the purpose?

Mr. Shibley: Yes.

Mrs. Shuttleworth: My impression is that notwithstanding all the hassles we ~~have~~ ^{have} been getting he still thought that there might be some damn way we could get our proposal heard in a different light.

Mr. Shibley: He was still in there fighting, to use his own expression, Is that right?

Mrs. Shuttleworth: Sadly, but fighting.

Mr. Shibley: Have you any knowledge or information or belief as to why he should consider that a communication of the nature of the letter of July 14 to a man such as Mr. Cronyn would bring about that result?

Mrs. Shuttleworth: Yes, Mr. Cronyn is a knowledgeable man. He is a director of our firm. If you have run out of ways to think of doing something you ask somebody else. And that is what he did. He says, "I would appreciate your comments, but I don't want to put you in any embarrassment."

Mr. Shibley: In respect to that phrase, ~~embarrassment~~ by reason of Mr. Cronyn's position at the time as chairman of a government committee?

Mrs. Shuttleworth: Are you asking if that is my understanding of that phrase?

Mr. Shibley: Yes.

Mrs. Shuttleworth: Yes.

Mr. Shibley: Was Mr. Cronyn selected for this type communication in an endeavour to get Hydro to have a second and harder look for any reason related to his position with the government?

H-802-2

Mrs. Shuttleworth: No.

Mr. Shibley: So having written to Mr. Cronyn on July 14, and having received no response, did Mr. Smith make any other form of approach to anyone, or any other effort to have the proposal of Ellis-Don considered? I am thinking of prior to his letter of August ²¹ ~~14~~ to Mr. Seguin.

Mrs. Shuttleworth: To my knowledge, no further attempts to have it considered further. The first attempt to my knowledge would be trying to find out, I believe it was from Mr. Dillon, who he might contact within the Hydro commission to advise them of the situation as he saw it.

Mr. Shibley: What name did Mr. Dillon give?

Mrs. Shuttleworth: Mr. Roger N. Seguin.

Mr. Shibley: That would then be in point of time prior to August 21, 1972?

Mrs. Shuttleworth: Yes.

Mr. Shibley: So that it was at Mr. Dillon's instance that Mr. Seguin was selected as the commissioner with whom Mr. Smith would communicate.

[REDACTED] Is that right?

Mrs. Shuttleworth: ~~Mr.~~ Mr. Smith asked Mr. Dillon and this was the name Mr. Dillon suggested.

Mr. Shibley: Was the letter of August 21, 1972, also kept in the "personal and confidential" file?

Mrs. Shuttleworth: No, it was not.

Mr. Shibley: What file was it kept in?

Mrs. Shuttleworth: It was kept in the Hydro file.

Mr. Shibley: So the only letter kept in the "personal and confidential" file was the letter of July 14, 1972?

Mrs. Shuttleworth: That is correct.

Mr. Shibley: Was that letter ever part of the Hydro file?
I mean Ellis-Don's Hydro file?

Mrs. Shuttleworth: Which letter are you referring to?

Mr. Shibley: The letter of July 14, 1972.


Mrs. Shuttleworth: No.

5:45 - 5:50 pm
CA

H-803-3

Mr. Shibley: It wasn't a matter of subsequent segregation,
it was always in the "private and confidential" file?

Mrs. Shuttleworth: Yes.



H-803-1 follows

June 27th, 1973

5.50 - 5.55 pm

H 803 - 1

AA

(Mr. Shibley)

~~_____~~
~~_____~~
~~_____~~
Mr. Chairman: Mr. Renwick.

Mr. Bullbrook: You have gone over these with great rapidity.

Mr. Chairman: Mr. Renwick, ~~He's being kind to you, and I don't want to hear any more of this.~~
~~He's~~ before you, sir, and I'm going back quite a ways now. And I think if you will switch the mikes on Mr. Deans over to Mr. Renwick.

Mr. Renwick: Would you like to go over there?

Mr. Bullbrook: No, not necessarily. You continue on from the same mike.

~~Mr. Renwick:~~ I'll probably be much smarter in the morning.

Mr. W. Hodgson: He's being kind to you, ~~and I don't want to hear any more of this.~~
You don't talk so much here.

Mr. Renwick: I'm always smarter at this hour of the night. Mrs. Shuttleworth, what was Mr. Smith's first response to the letter, ^{the} handwritten note, that you sent to him in Italy enclosing the exhibit 172, the article from the Globe and Mail, dated April 30th?

Mrs. Shuttleworth: I don't know. I wasn't there.

Mr. Gaunt: Maybe you had better quit and go before him.

Mr. Chairman: I don't think you are so smart at this hour of the night, Mr. Renwick.

Mr. Renwick: What was the first response that you have any knowledge of Mr. Smith's receipt of your handwritten note?

Mrs. Shuttleworth: I have no personal knowledge of his first ~~response~~ response. However, I do know that after he had arrived in Europe and had received them, at his

June 27th, 1973

5.50 - 5.55 pm

H 803 - 2

AA

(Mrs. Shuttleworth)

~~the~~ second hotel, the one he was in, in Europe, a day or two before he first saw them, I believe two days subsequent to that he called our vice-president on a matter of a bid that we were putting in, which fact we had ~~previously~~ previously arranged and that they made comment and reference to the article.

Mr. Renwick: Mr. Smith made no comment to you ~~from~~ by way of communication from Italy?

Mrs. Shuttleworth: None.

Mr. Renwick: None at all. Did he make any response to you when he arrived back in ~~the area~~ London?

Mrs. Shuttleworth: As I've said to Mr. Shibley, we ~~did~~ discussed the article and I believe I pointed out the area.

Mr. Renwick: Did Mr. Smith comment to you that he was concerned about any breach of confidentiality by Mr. McAuliffe?

Mrs. Shuttleworth: Yes.

Mr. Renwick: Did he take any action about it that you know of?

Mrs. Shuttleworth: No. The action was inaction.

Mr. Renwick: Did he indicate what area of the article he was concerned about?

Mrs. Shuttleworth: He was concerned about the line which we have established ~~which~~ was attributed to him and he was concerned that our name was used throughout.

Mr. Renwick: Now, if I may just refer to the time when Mr. Smith was leaving with Mr. McAuliffe, you stated that you had a very ~~strong~~ strong reaction to the comment that you had heard Mr. Smith make to Mr. McAuliffe.

Mrs. Shuttleworth: Yes, I did.

Mr. Renwick: Would you mind repeating or ~~enlarging~~ enlarging upon the nature of that reaction and what you

(Mr. Renwick)

~~was~~ ^{were} ~~not~~ ~~objecting~~ to?

Mrs. Shuttleworth: My reaction was, "Christ, that's not something you say to the press," ~~the~~ the reason being that the statement as it was said could be taken as having more import than to my knowledge had ever been established. I was concerned that Mr. McAuliffe might take that greater import erroneously.

Mr. Renwick: And Mrs. Shuttleworth, were you aware that the reference in that one paragraph, the anonymous paragraph, was a reference to Mr. Cronyn?

Mrs. Shuttleworth: Yes.

Mr. Renwick: At the time of the publication of the article?

Mrs. Shuttleworth: Yes, the initial portion of it, not the latter portion.

Mr. Renwick: But the reference to the person was a person that you identified as Mr. Cronyn?

Mrs. Shuttleworth: Yes, that was my first thought.

Mr. Renwick: Right. I have no further questions, Mr. Chairman.

Mr. Chairman: Mr. Bullbrook.

Mr. Bullbrook: I want to ~~re~~ pursue with you, Mrs. Shuttleworth, your knowledge of conversations between Mr. Cronyn and Mr. Smith, and I am first going to ask you if you were here in the hearing when Mr. Cronyn gave his evidence.

June 27, 1973

5.55-6.00p.m.

BIA.

H-804-1

(Mr. Bullbrook)

Mr. Smith, and I am just going to ask you if you were here in the hearing when Mr. Cronyn gave his evidence.

Mrs. Shuttleworth: Yes, I was.

Mr. Bullbrook: You recall his evidence was that

in his first conversation Mr. Cronyn ^{told} Mr. Smith, that in view of his, that is Cronyn's position, ^{with the government} he couldn't help them.

Do you recall that evidence?

Mrs. Shuttleworth: Yes, I do.

Mr. Bullbrook: Then there was the second conversation

where Mr. Smith sought Mr. Cronyn's advice as to what he should do. I am interested in the timing. I have a note that you, in response to our counsel, said that Mr. Cronyn suggested to Mr. Smith that he, that is Mr. Smith, see Mr. Gathercole if he wished to present his case personally. Is that your evidence, as you recall it, in response to our counsel?

Mrs. Shuttleworth: Yes.

Mr. Bullbrook: Yes. I wonder if you can help me

about that. When and where did that conversation take place?

Mrs. Shuttleworth: The where is in his London

office.

Mr. Bullbrook: His, being Mr. ~~Smith~~?

Mrs. Shuttleworth: Smith's London office.

Mr. Bullbrook: You were present, I take it?

Mrs. Shuttleworth: Yes.

Mr. Bullbrook: And when, ^a approximately?

Mrs. Shuttleworth: I said before, and it is still my recollection, it was several months after our proposal had been submitted.

Mr. Bullbrook: That would take us in to approximately March, or April of 1972.

Mrs. Shuttleworth: What was the ^a date of our ~~meeting~~ January?

June 27, 1973

5.55-6.00p.m.

B.A.

Mr. Bullbrook: I think January 19th, wasn't it?

Mrs. Shuttleworth: Yes.

Mr. Shibley: 24th.

Mr. Bullbrook: 24th?

Mrs. Shuttleworth: My impression would be ~~late~~ later in February, perhaps, or early March, but I can't really say why I feel that way.

Mr. Bullbrook: I tell you, I am very, very interested in your presence at any conversations between Mr. Cronyn and Mr. Smith. I am also very interested. I don't know whether you want to continue ~~the~~ ^{the} or going to be some time on this, and so I think, probably, I'll tell the witness what my inclination is, and desires, so that she might be able to refresh her memory, during the night.

Mr. Genest: Careful, now, Jim.

Mr. Bullbrook: I want to tell you, I'm so impressed with you that I'd make you the first ~~lady~~ lady Hydro commissioner in the Province of Ontario.

Mrs. Shuttleworth: Do you have any influence?

Mr. Bullbrook: No, I don't. But if you would stop working for Gordon Laughren, ~~perhaps~~.

Mrs. Shuttleworth: I am sorry, I have never worked for Mr. Laughren.

Mr. Bullbrook: I'm sorry. No, I want to explore with you, tomorrow, if I can, your conversations with Mr. Smith about this whole matter. Your recollection of conversations with him, because we have evidence before us that he was extremely irate about this, and we have evidence that, in February, he knew another company was celebrating, and I want to know what your discussions with him over the course of the subsequent months was.

Mr. Chairman: I think we are ready to adjourn. I

June 27, 1973

5.55-6.00p.m.

B.A.

(Mr. Chairman)

just wanted to make sure now that -- I know Mr. Walker is not going to be able to be ~~here~~ here tomorrow. I assume that the rest of us

~~Mr. Bullbrook~~

Mr. Allan: I won't be able to be here tomorrow afternoon.

Mr. Chairman: Tomorrow afternoon. Now, let me see.

Mr. Bullbrook: Well, I am going to try and catch a plane at 5.30. We are not sitting Friday, I take it.

Mr. Chairman: No, the original ~~was~~ arrangement was that we would not sit Friday.

Mr. Bullbrook: I don't want you to be without a quorum, Mr. Chairman. How many do you need?

Mr. Walker: Mr. Chairman, I am particularly interested in tomorrow; I think there is very important evidence coming forward, and I am disappointed I won't be present because of other obligations in the riding, ⁶but would it be feasible to have our meetings resume again next week, on the Tuesday, following the holiday, ^Pperhaps even adding an hour or two as might be required, perhaps even some evening work?

Mr. ~~Edward~~ Renwick: I think we more or less ~~are~~ settled on next week as Tuesday, Wednesday and Thursday, during the days, didn't we?

Mr. Chairman: Yes.

Mr. Bullbrook: Are you asking that we not sit tomorrow?

Mr. Walker: Well, I know Mr. Allan has a problem with the afternoon. I have a problem with the entire day. You would like to get away to the airport by 5.30, or before.

Mr. Bullbrook: I am going to assure you that I am not going to get away. I want ~~to~~ to sit tomorrow. I'll tell you, not to inconvenience you, but on the balance of responsibilities, I think we have to go ahead with this ~~is~~ thing, otherwise,

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are not going to be finished, ~~and~~^{but} recognize your concurrent obligation in London, and certainly, if you have any reservations about the fairness of matters, I can assure you that I won't be unfair in any way with the witness. I would not even try it because she is too sharp for me, I can tell you.

Mr. Walker: I suppose what I am saying is that, instead of finishing half way through ~~the 28th July~~^{the 28th July}, we might finish towards the end of the 28th July, but if it were feasible and it could be done next Tuesday, I would, for one, appreciate the reprieve and perhaps others might.

Mr. Chairman: Mr. Walker, I expressed it in private to you before, I think we are going to have difficulty getting all of the committee members here every day, from this point on, and we may also have to accommodate some of the witnesses. I think we would make a mistake to omit a day. Now, ~~if~~^{if} you have any particular line of questioning that you want to follow ~~with any of the witnesses that Mr. Snibley intended to call tomorrow~~, then I think ~~you will leave those questions with him~~. And then all of the witnesses, as you know, are subject to recall so if there is anything special that you still want to go into after ~~you read the transcript of tomorrow~~, a recall ~~can~~ be made.

Mr. Snibley: What might be arranged, Mr. Chairman, is that the transcript be forwarded to you for reading.

Mr. Walker: ~~As~~^{As} a matter of fact, I have already made an arrangement with Mr. ~~Snibley~~^{Milner} to ship it special delivery, which may, if our Post Offices work, get it there.

Mr. Chairman: All right, then, we are adjourned.

Mr. Hodgson: Mr. Chairman, have we established whether we will sit nights next week?

Mr. Chairman: I think the wish that we had earlier was that when we ~~have~~^{have} meeting for a full day it was a little bit too much to ask, not only the members of the committee, but possibly

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of the people being examined and of our own counsel to try and sit in the evenings as well. Now, I am subject to the wishes of the committee, as I am sure we all are.

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~~_____~~

Mr. Bullbrook: I thought our counsel led us to believe, I am sure, that we would be prepared to meet when we ~~could~~^{ed} wish to meet.

Mr. Shibley: I am.

Mr. Bullbrook: If we could meet in the evenings, I think it would stand us in good stead, ~~we~~^{can} could get out of here. Those of us from out of town are here in any event.

Mr. Walker: It keeps us out of trouble in the evening.

Mr. Bullbrook: That's true.

Mr. Chairman: I am certainly quite happy to meet in the evenings.

Mr. Shibley: Are you still, then, talking ~~about~~^{about what} ~~next~~ days next week, because my difficulty is to arrange for witnesses to be available?

Mr. Bullbrook: Well, shall we sit Tuesday, and let us sit Tuesday evening; Wednesday and let us sit Wednesday evening; and Thursday, and let us sit Thursday evening?

Mr. Shibley: You are talking about a morning, afternoon and evening sitting on Tuesday, ~~Wednesday~~ and Thursday.

Mr. Allan: I won't be able to be here next Wednesday.

Mr. Shibley: ~~On~~^{On} those three days?

Mr. Chairman: Tuesday, Wednesday and Thursday, let's plan to sit in the evening, Mr. Allan indicating that he will not be here all day Wednesday.

Mr. Shibley: Tomorrow, however, we are sitting only in the morning and afternoon.

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Mr. Chairman: The morning and afternoon tomorrow.

We are then adjourned until 10.a.m. tomorrow.

The Committee adjourned at 6.05 o'clock p.m. 2

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square Counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
Counsel for J.D. Smith	John Brownlie
Counsel for J.W. Manthorpe and Gerald McAuliffe:	E.M. Lane
President, Ellis-Don Ltd.:	J.D. Smith
Secretary to J.D. Smith:	Mrs. A.M. Shuttleworth

